GST/HST Notice

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For discussion purposes only

Draft GST/HST Technical Information Bulletin, *Harmonized Sales Tax – Self-assessment of the provincial part of the HST in respect of property and services brought into a participating province.*

This publication is being disseminated by the Canada Revenue Agency in draft form for comments or suggestions, which should be sent by October 31, 2011 to the following:

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La version française de la présente publication est intitulée *Appel aux commentaires du public – Version préliminaire du bulletin d'information technique sur la TPS/TVH,* Taxe de vente harmonisée – Autocotisation de la partie provinciale de la TVH à l'égard des biens et services transférés dans une province participante.

Canada Revenue Agency | Agence du revenu du Canada

Canada

Harmonized Sales Tax

Self-Assessment of the provincial part of the HST in respect of property and services brought into a participating province

The provinces of Ontario and British Columbia have joined the Harmonized Sales Tax (HST) framework as a result of legislation passed by the governments of Canada, Ontario and British Columbia. Beginning July 1, 2010, the HST, which is administered by the Canada Revenue Agency (CRA), replaced the federal Goods and Services Tax (GST) and the existing provincial sales taxes in those provinces. In addition, federal regulations have been passed implementing an agreement signed by the governments of Canada and Nova Scotia to increase the provincial part of the HST in Nova Scotia, effective July 1, 2010.

This publication replaces GST/HST Technical Information Bulletin B-079 *Self-Assessment of the HST on Supplies Brought into a Participating Province*, dated February 28, 1997. It explains the rules in the *Excise Tax Act* (the Act) and its regulations that require self-assessment of the provincial part of the HST in respect of personal property and services brought into a participating province and that have not been subject to the provincial part of the HST at the same or higher provincial rate as the rate for that province. This includes new self-assessment rules announced in the Backgrounder released by the Department of Finance on February 25, 2010, entitled *Place of Supply, Self-Assessment and Rebate Rules for the Harmonized Sales Tax (HST)* and reflected in Division IV.1 and regulations entitled *New Harmonized Value-added Tax System Regulations, No. 2* published in the Canada Gazette, Part II, on June 30, 2010. In addition, it includes rules included in *Regulations amending various GST/HST Regulations, No. 2* published in the Canada Gazette Part II on March 16, 2011, that are effective July 1, 2010, as well as the *Proposed Amendments to the GST/HST Legislation* and the proposed *Draft Regulations Amending Various GST/HST Regulations* which includes the proposed *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* (draft SLFI Regulations), both announced on January 28, 2011. Any commentary in this bulletin should not be taken as a statement by the CRA that these proposed amendments will be enacted in their current form.

All legislative references in this bulletin refer to the *Excise Tax Act* and its regulations unless otherwise indicated. Further, all references in this publication to supplies are to taxable (other than zero-rated) supplies made in Canada unless otherwise indicated.

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1. Introduction

Taxable supplies that are made in Canada are subject to the GST (the federal part of the HST) under subsection 165(1) at a rate of 5%. Taxable supplies that are made in a participating province are also subject to the provincial part of the HST under subsection 165(2) at the provincial rate for the province, which results in the application of HST at the relevant harmonized rate. The provincial rates for the participating provinces set out under Schedule VIII are 10% for Nova Scotia, 8% for Ontario, New Brunswick, and Newfoundland and Labrador, and 7% for British Columbia. The province in which a supply is deemed to be made is determined by place of supply rules that are contained in Schedule IX and the *New Harmonized Value-Added Tax System Regulations*. These rules are explained in GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*. A new place of supply rule that would apply in certain circumstances to sales of specified motor vehicles is explained in GST/HST Info Sheet GI-119, *Harmonized Sales Tax – New Place of Supply Rule for Sales of Specified Motor Vehicles*.

The place of supply rules are designed to deem the province in which a supply of property or services is made to be the province in which consumption of property and services is most likely to occur and the supplier is required to collect the GST or HST in respect of the supply depending on the province in which the supply is made. However, in certain circumstances, personal property and services may subsequently be consumed in a different province with a higher provincial rate.

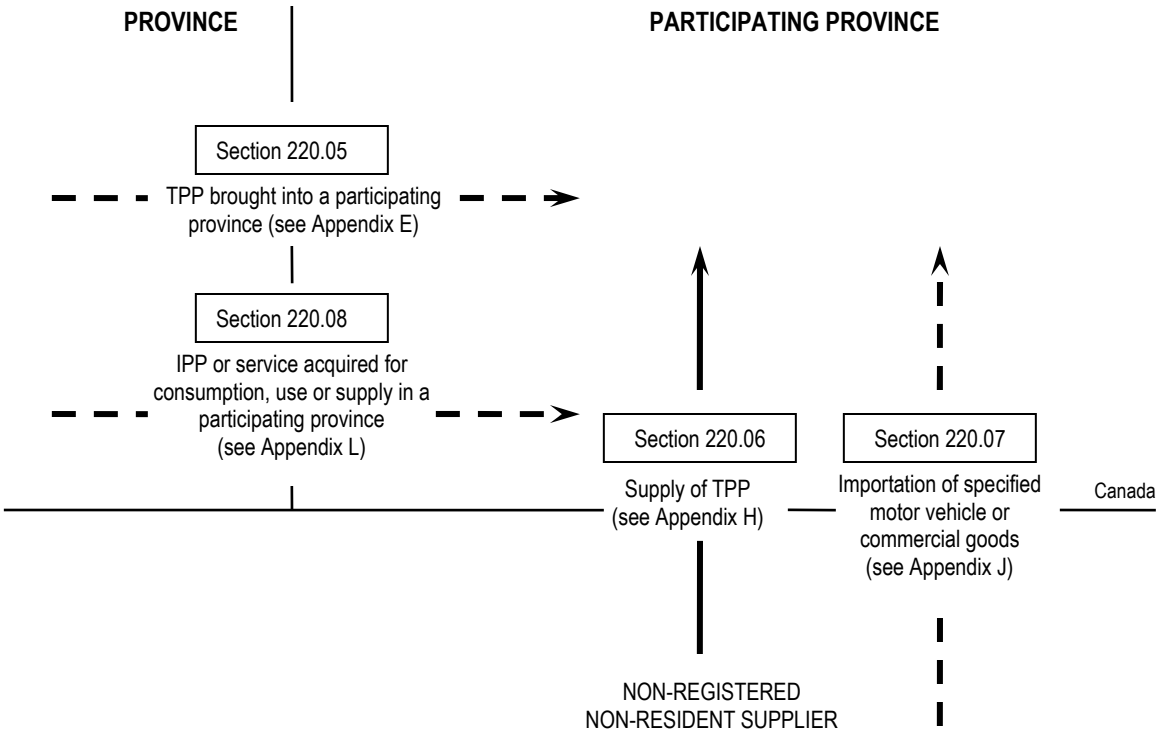
Furthermore, depending on the circumstances, the importation of taxable goods into Canada is generally subject to GST at a rate of 5% or HST at the relevant combined rate. Such goods may subsequently be brought into a participating province with a higher provincial rate than the rate of tax that applied to their importation.

Division IV.1 sets out self-assessment rules that in some circumstances require a person to report and pay the provincial part of the HST where property and services are brought into a participating province for consumption, use or supply in a participating province after having been supplied in a province with a lower provincial rate (if the province in which the supply is made is a non-participating province, the provincial rate is equal to 0%), or where taxable personal property is imported from outside of Canada into a participating province with a provincial rate that is higher than the provincial rate that was payable in respect of the importation of the property.

Generally, self-assessment of the provincial part of the HST in respect of property or services brought into a participating province is required under Division IV.1 in the following four situations, which comprise the main sections of this publication:

- tangible personal property (TPP) brought into a participating province (section 220.05);
- tangible personal property supplied by non-registered non-resident suppliers (section 220.06);
- imported specified motor vehicles and commercial goods (section 220.07); and
- intangible personal property (IPP) and services acquired by a resident recipient of a participating province for consumption, use or supply in a participating province (section 220.08).

Division IV.1



As explained in this publication, there are several exceptions to the requirement to self-assess the provincial part of the HST in respect of property or services that are brought into a participating province. A significant exception generally applies where the property or service is brought into a participating province by a registrant for consumption, use or supply exclusively (i.e. 90% or more for registrants other than financial institutions and 100% for financial institutions) in the course of commercial activities of the registrant. The self-assessment rules can therefore have greater application with respect to non-registrants and certain entities, such as public service bodies, that are involved in exempt activities. Another significant exception generally applies where the provincial part of the HST has already been payable in respect of the property or service at a provincial rate that is equal to or higher than the provincial rate for the participating province into which the property or service is brought, including as a result of the supply of the property or service having been made in a participating province based on the application of the place of supply rules. In addition, there is an exception under section 220.04 that generally applies when a person is a selected listed financial institution. See the heading "Selected Listed Financial Institution" in Appendix B for additional information.

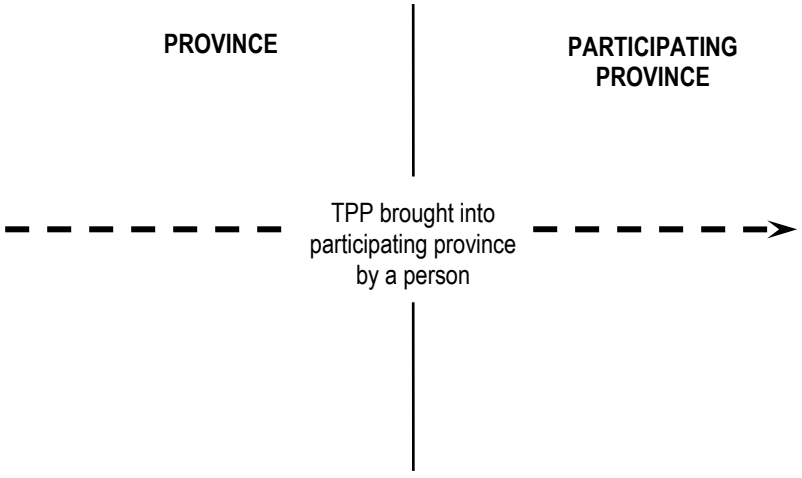
The self-assessment rules that are explained in this publication are set out in Division IV.1, Schedule X, and Part 5 of the *New Harmonized Value-Added Tax System Regulations No. 2* (the Regulations). Appendix A provides an overview of the key provisions of Division IV.1 that are explained in this publication.

The place of supply rules are also complemented by rules that provide for rebates of the provincial part of the HST in certain circumstances where the provincial part has been paid in respect of supplies of property and services that are made in a participating province and subsequently removed from the participating province or acquired for consumption, use or supply outside the province, including in another participating province with a lower provincial part rate. These rebate rules will be explained in GST/HST Technical Information Bulletin *Harmonized Sales Tax – Rebates of the Provincial Part of the HST* that is to be released. Information regarding the self-assessment rules under Division IV (other than the rules that apply to financial institutions and that are explained in GST/HST Technical Information Bulletin B-095, *The Self-assessment Provisions of Section 218.01 and Subsection 218.1(1.2) for Financial Institutions (Import Rules)*) that apply in respect of property or services supplied outside Canada and acquired for consumption, use or supply in a participating province will be addressed in the publication to be released entitled *Harmonized Sales Tax – Imported Taxable Supplies*. Note that this bulletin does not address the proposed provisions relating to provincial investment plans set out in the *Proposed Draft Regulations Amending Various GST/HST Regulations* (the draft regulations), which includes proposed changes to the *New Harmonized Tax System Regulations, No. 2*, which were announced by the Department of Finance on January 28, 2011 (see the definition of "Provincial Investment Plan" in Appendix B). This bulletin also does not address circumstances where the exception in section 220.04 does not apply to selected listed financial institutions.

Appendix B contains definitions and concepts that are relevant for purposes of Division IV.1. Definitions and concepts that are only relevant for purposes of a particular subdivision or section of Division IV.1 are set out in separate appendices as indicated throughout the publication.

2. Tax on tangible personal property brought into a participating province

(Subdivision a of Division IV.1)



Overview

The self-assessment rules for tangible personal property that is brought into a participating province from another province or from outside Canada are set out in sections 220.05 to 220.07 under Subdivision a of Division IV.1, Schedule X and Division 3 of Part 5 of the Regulations. Generally, the self-assessment rules for tangible personal property apply consistently across all types of tangible personal property brought into a participating province, except with respect to specified motor vehicles. The rules governing when the provincial part of the HST is payable in respect of specified motor vehicles and how the tax is paid and collected are quite different in certain respects when compared to all other types of tangible personal property.

As explained below, there are several exceptions to the requirement to self-assess the provincial part of the HST in respect of tangible personal property that is brought into a participating province. A significant exception to the obligation to self-assess the provincial part generally applies where the property is brought into a participating province by a registrant for consumption, use or supply exclusively (i.e., 90% or more for registrants other than financial institutions and 100% for financial institutions) in the course of commercial activities of the registrant. Another significant exception generally applies where the provincial part of the HST has already been payable in respect of the property at a provincial rate that is equal to or higher than the provincial rate for the participating province, including as a result of the supply of the property having been made in a participating province based on the application of the place of supply rules. In addition, there is an exception under section 220.04 that generally applies when a person is a selected listed financial institution. See the heading "Selected Listed Financial Institution" in Appendix B for additional information.

The application of the rules with respect to specified motor vehicles and to other types of tangible personal property is explained in this section and in Section 4, Returns and Payments of Tax.

Appendix C contains definitions and concepts that are relevant for purposes of Subdivision a of Division IV.1.

I. Tax on tangible personal property brought into a participating province

(Subsection 220.05(1) and section 9 of the Regulations)

Appendix D contains definitions and concepts that are relevant for purposes of subsection 220.05(1).

Unless a specific exception applies, a person must self-assess the provincial part of the HST in respect of tangible personal property that is brought into a participating province by the person from another province. The amount of tax that is to be self-assessed in this case is calculated in a prescribed manner under the Regulations by multiplying a prescribed value, in respect of the tangible personal property, by the appropriate rate.

The rate is equal to the difference between the provincial rate for the participating province into which the tangible personal property is brought and the provincial rate for the other province from which the property is brought (if the other province is a non-participating province, the provincial rate is equal to 0%). If the tangible personal property is a specified item in respect of the other province, the rate is the provincial rate for the participating province that the property is brought into.

If the tangible personal property is a specified motor vehicle that the person is required to register under the laws of the participating province relating to the registration of motor vehicles, the value of the property is equal to the "specified value" of the vehicle. If the tangible personal property is not such a specified motor vehicle and consideration was paid or payable in respect of an arm's length sale of the property made at any time to the person, the value of the property is equal to the lesser of the value of that consideration and the fair market value of the property at the time it is brought into the participating province. In any other case, including where the

tangible personal property has been supplied by way of lease, the value is equal to the fair market value of the property at the time it is brought into the participating province.

The actual formula for determining the amount of tax payable under subsection 220.05(1) is equal to

$$A \times B$$

where

A is the percentage determined by the formula C – D

where

C is equal to the tax rate for the participating province, and

D is equal to:

(a) if the property is a specified item in respect of the other province, 0%, and

(b) in any other case, the provincial rate for the other province;

B is equal to:

(a) if the property is a specified motor vehicle that the person is required to register under the laws of the participating province relating to the registration of motor vehicles, the specified value in respect of the specified motor vehicle,

(b) if the property is not a specified motor vehicle referred to in paragraph (a) and consideration was paid or payable in respect of a supply of the property made by way of sale at any time to the person by another person with which the person dealt at arm's length, the lesser of the value of that consideration and the fair market value of the property at the particular time, and

(c) in any other case, the fair market value of the property at the particular time.

Application in offshore areas

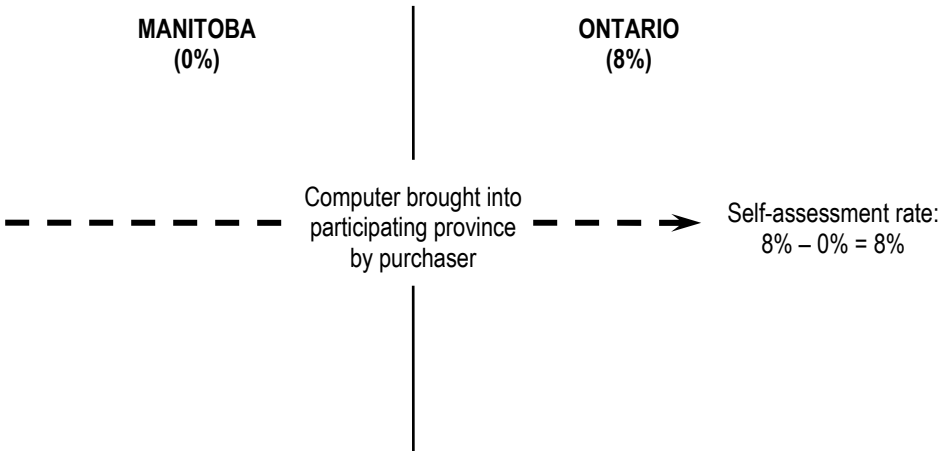
(Subsection 220.05(4))

A person is not required to self-assess the provincial part of the HST in respect of tangible personal property that is brought into the Nova Scotia offshore area or Newfoundland offshore area from another province, unless the property is brought into the area for consumption, use or supply in the course of an offshore activity.

Example 1

An individual who lives in Ontario and is visiting Manitoba purchases a laptop computer for $500 (which is also equal to its fair market value) for personal use from a Manitoba retailer. The individual picks up the computer at the retailer's premises in Manitoba and is required to pay GST at a rate of 5% in respect of the purchase to the supplier.

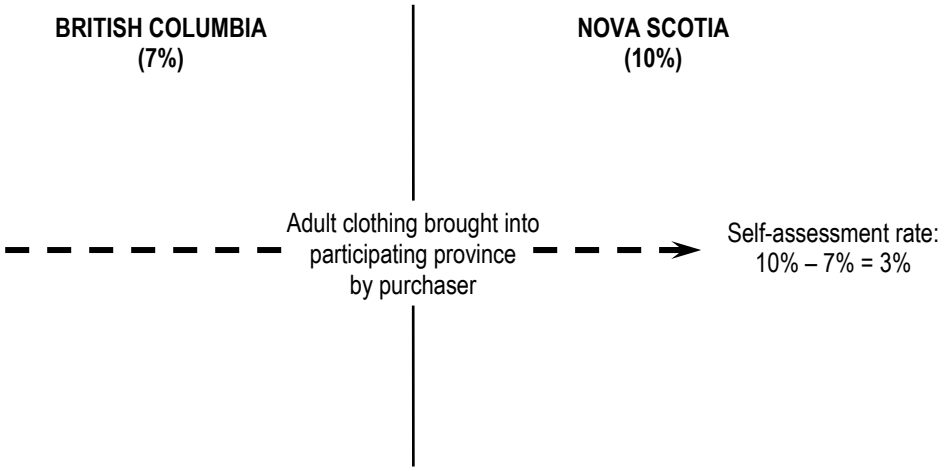
When the individual returns to Ontario with the computer, tax becomes payable by the individual in respect of the computer. The amount of tax that the individual is required to self-assess is equal to $40 (8% (8% Ontario provincial rate – 0% Manitoba provincial rate) × $500 (value of the consideration for the supply)).



Example 2

An individual who lives in Nova Scotia and is visiting British Columbia purchases adult clothing from a retailer for $900 (which is also equal to its fair market value) in British Columbia. The individual picks up the clothing at the retailer's premises and is required to pay HST at the rate of 12% (consisting of the 5% federal part and the 7% provincial part of the HST in British Columbia) in respect of the purchase to the supplier.

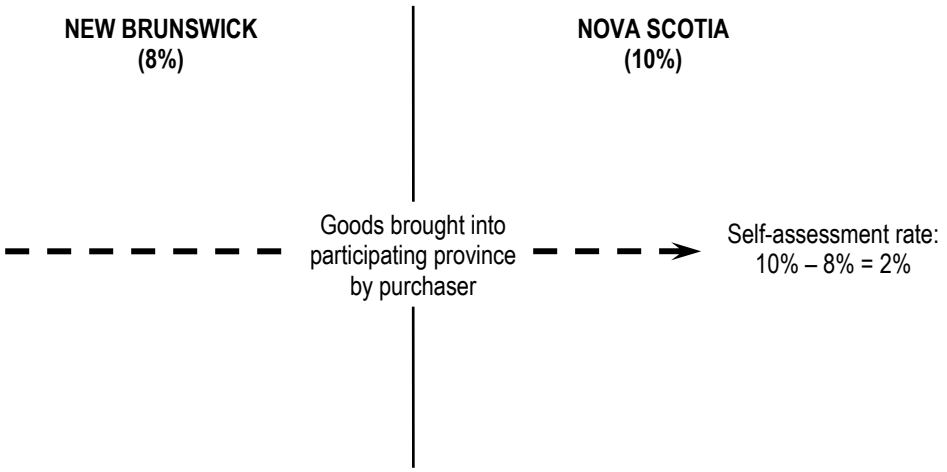
When the individual returns to Nova Scotia with the clothing, the tax becomes payable by the individual in respect of the clothing. The amount of tax that the individual is required to self-assess is equal to $27 (3% (10% Nova Scotia provincial rate – 7% British Columbia provincial rate) × $900 (value of the consideration for the supply)).



Example 3

A supplier in New Brunswick sells goods to an unrelated purchaser in Nova Scotia that is engaged in exempt activities. The supply of the goods is made in New Brunswick and the supplier collects HST at the rate of 13% (consisting of the 5% federal part and the 8% provincial part of the HST in New Brunswick) in respect of the supply. The goods have a fair market value of $10,000, but the supplier agrees to sell the goods to the purchaser for $9,000. The purchaser then immediately brings the goods into Nova Scotia.

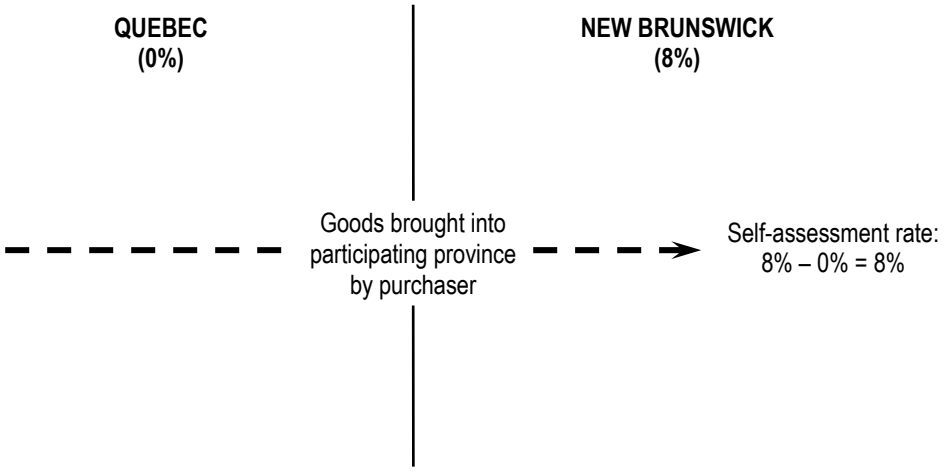
When the purchaser brings the goods into Nova Scotia, the tax becomes payable by the purchaser in respect of the goods. The amount of tax that the purchaser is required to self-assess is equal to $180 (2% (10% Nova Scotia provincial rate – 8% New Brunswick provincial rate) × $9,000 (the lesser of the value of the consideration for the supply and the fair market value)).



Example 4

A supplier in Quebec sells goods to a related purchaser in New Brunswick that is involved in exempt activities. The supply of the goods is made in Quebec and GST at a rate of 5% is collected by the supplier in respect of the sale. The goods have a fair market value of $20,000, but the supplier agrees to sell the goods to the purchaser for $5,000. The purchaser then immediately brings the goods into New Brunswick.

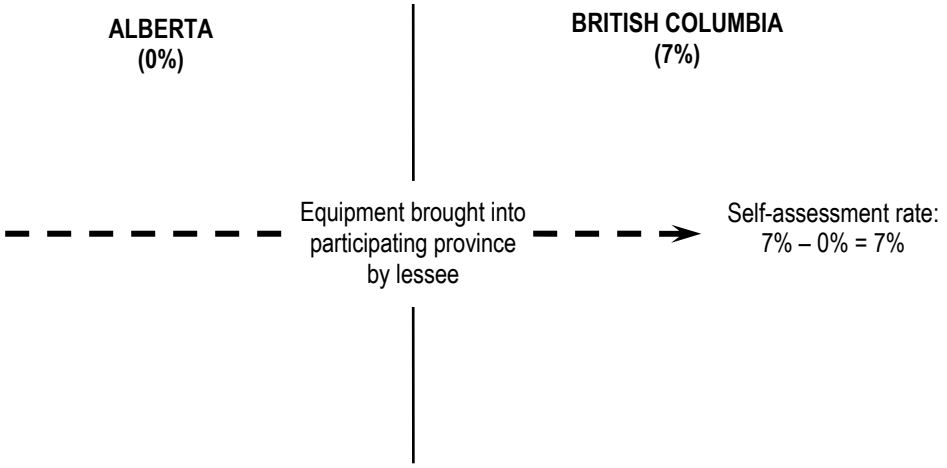
When the purchaser brings the goods into New Brunswick, the tax becomes payable by the purchaser in respect of the goods. Because the supplier and purchaser do not deal with each other at arm's length, the amount of tax that the purchaser is required to self-assess in respect of the goods is based on the fair market value of the goods when they are brought into New Brunswick. The amount of tax that the purchaser is required to self-assess is equal to $1,600 (8% (8% New Brunswick provincial rate – 0% Quebec provincial rate) × $20,000 (the fair market value of the goods)).



Example 5

A leasing business in Alberta leases equipment, valued at $2,000, to a public college located in British Columbia pursuant to a two-month lease. The equipment is for use in exempt activities of the college. The college takes delivery of the equipment in Alberta, and brings it into British Columbia other than for consumption, use or supply in the course of commercial activities. Because the supply is made in a non-participating province, only GST at a rate of 5% is collected in respect of the lease.

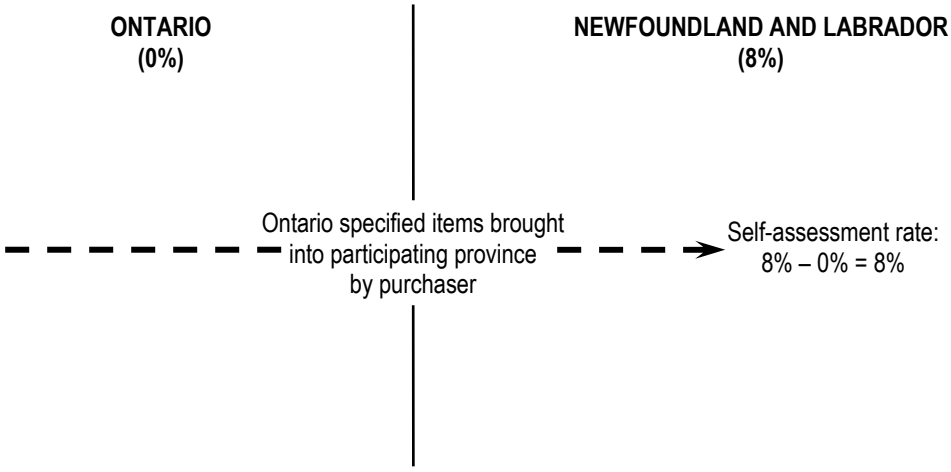
When the college brings the equipment into British Columbia, the tax becomes payable in respect of the equipment. Although the leasing business and the college deal with each other at arm's length, the supply of the equipment is a supply by way of lease, and thus tax becomes payable by the college based on the equipment's fair market value when it is brought into British Columbia. The amount of tax that the college is required to self-assess is equal to $140 (7% (7% British Columbia provincial rate – 0% Alberta provincial rate) × $2,000 (fair market value of the equipment)).



Example 6

An individual who lives in Newfoundland and Labrador and is visiting Ontario purchases children's clothing and a children's car seat for a total of $500 from a retailer in Ontario. The individual picks up the clothing and car seat at the retailer's premises. Because the clothing and car seat qualify as specified items in Ontario, the individual only pays the federal part of the HST at the rate of 5% in respect of the purchase.

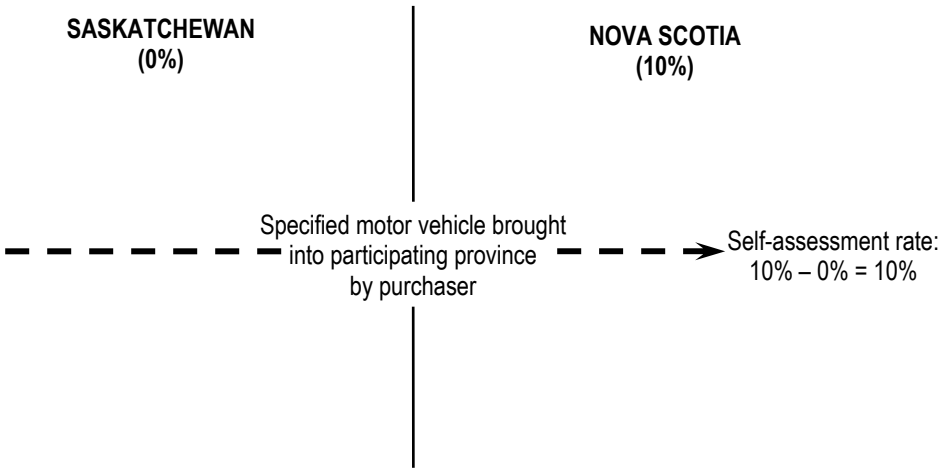
The children's clothing and car seat are not specified items in Newfoundland and Labrador. When the individual brings the goods into Newfoundland and Labrador, the tax becomes payable by the individual in respect of the goods. Because the clothing and car seat are specified items in Ontario and not subject to the provincial part of the HST when supplied in Ontario, the rate to be used when self-assessing tax owing by the individual would be 8%, which is the provincial rate for Newfoundland and Labrador. The amount of tax that the individual is required to self-assess is equal to $40 (8% (8% Newfoundland and Labrador provincial rate – 0%, since the goods are specified items in respect of Ontario) × $500 (the value of the consideration for the supply of the goods)).



Example 7

An individual who lives in Nova Scotia purchases a specified motor vehicle from a dealer in Saskatchewan. The supply of the vehicle is made in Saskatchewan and GST at a rate of 5% is collected by the supplier in respect of the supply.

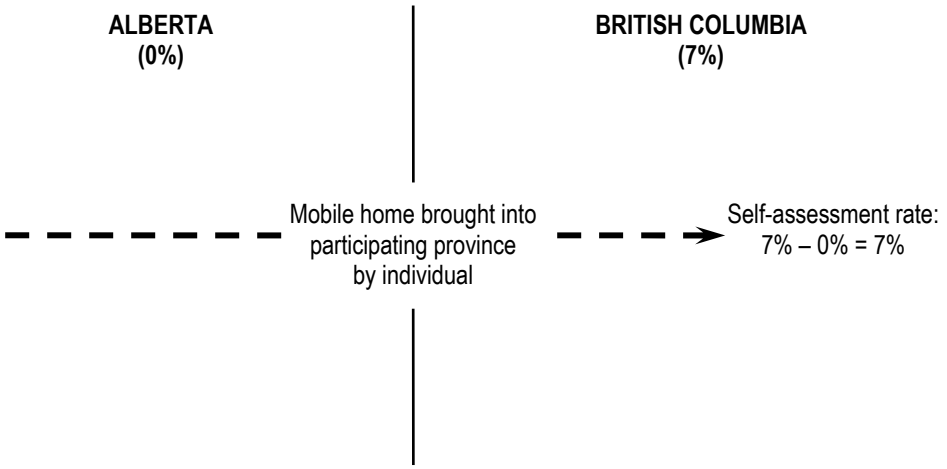
The individual returns to Nova Scotia a week later with the vehicle, where it needs to be registered with the Nova Scotia vehicle licensing authority. The licensing authority determines the specified value of the vehicle to be $30,000. The amount of tax that the individual is required to pay to the provincial licensing authority is equal to $3,000 (10% (10% Nova Scotia provincial rate – 0% Saskatchewan provincial rate) × $30,000 (the specified value of the vehicle)).



Example 8

An individual who lives in British Columbia purchases a new mobile home that is not affixed to land from a person in Alberta for $20,000. The individual retains a carrier to ship the mobile home from Alberta to a place in British Columbia. The place of supply of the mobile home is in Alberta.

Tax becomes payable by the individual in respect of the mobile home when it is brought into British Columbia. The mobile home is not affixed to land and as a result is tangible personal property. The individual is therefore required to self-assess tax in the amount of $1,400 (7% (7% British Columbia provincial rate – 0% Alberta provincial rate) × $20,000 (the value of the consideration for the supply)).



When the tax becomes payable

(Subsection 220.05(2))

The time at which the provincial part of the HST becomes payable in respect of tangible personal property depends on the circumstances. In the case of a specified motor vehicle that is required to be registered under the motor vehicle registration laws of the participating province, the provincial part of the HST becomes payable on the earlier of the day the person registers the vehicle in the province and the day on or before which the person is required to register the vehicle in the province. In this case, the tax is not required to be reported on a GST/HST return, but rather is collected by the provincial licensing authority on behalf of the Receiver General when the vehicle is registered.

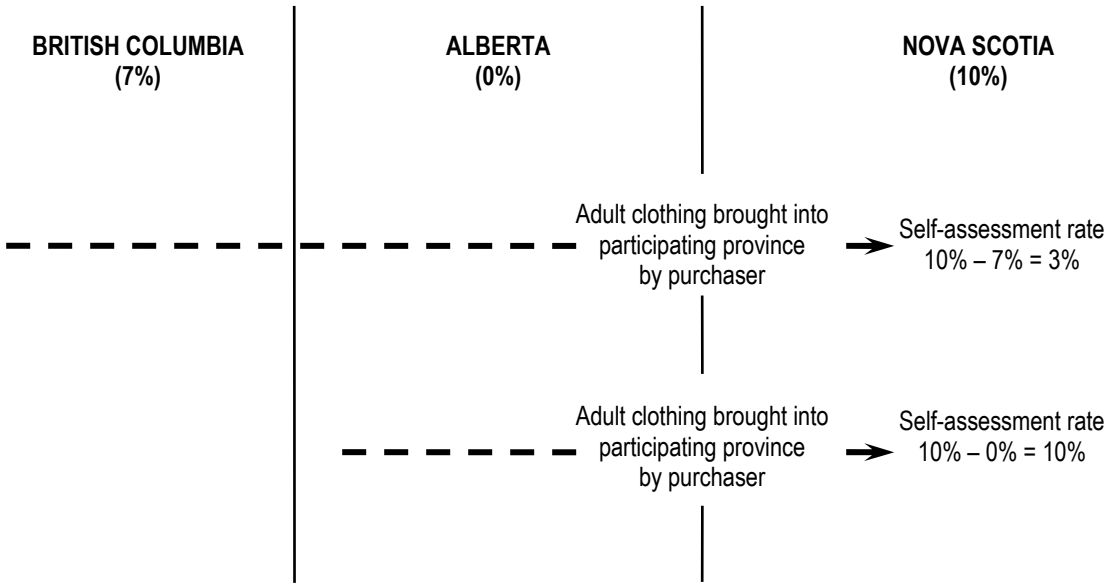
In any other case, the provincial part of the HST in respect of the tangible personal property becomes payable on the day the property is brought into the province.

The manner in which to self-assess the provincial part of the HST payable is explained in Section 4, Returns and Payments of Tax.

Example 9

An individual who lives in Nova Scotia purchases adult clothing in British Columbia for $200 on August 1, 2010, and purchases adult clothing in Alberta for $200 on August 2, 2010. The individual brings the clothing back to her home in Nova Scotia on August 3, 2010.

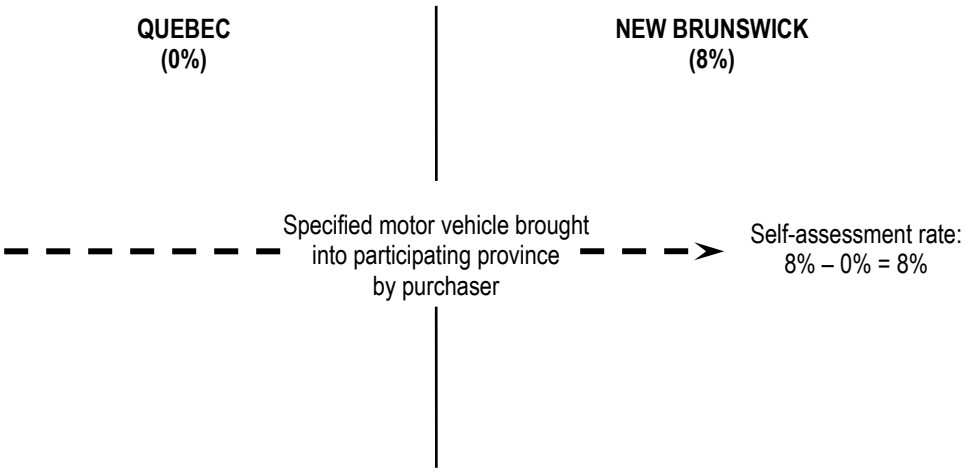
Tax becomes payable by the individual on August 3, 2010, the day the clothing is brought into Nova Scotia, at the rate of 10% (10% - 0%) in respect of the clothing purchased in Alberta and at the rate of 3% (10% – 7%) in respect of the clothing purchased in British Columbia. The amount of tax that the individual is required to self-assess is equal to $26 [$6 (3% (10% Nova Scotia provincial rate – 7% British Columbia provincial rate) × $200 (the consideration for the supply of the goods)) + $20 (10% (10% Nova Scotia provincial rate – 0% Alberta provincial rate) × $200 (the consideration for the supply of the goods))].



Example 10

An individual who lives in New Brunswick purchases a specified motor vehicle on January 10, 2011, from a dealer in Quebec. The individual picks up the vehicle in Quebec. The supply is made in Quebec and is subject to GST at a rate of 5% which is collected by the dealer.

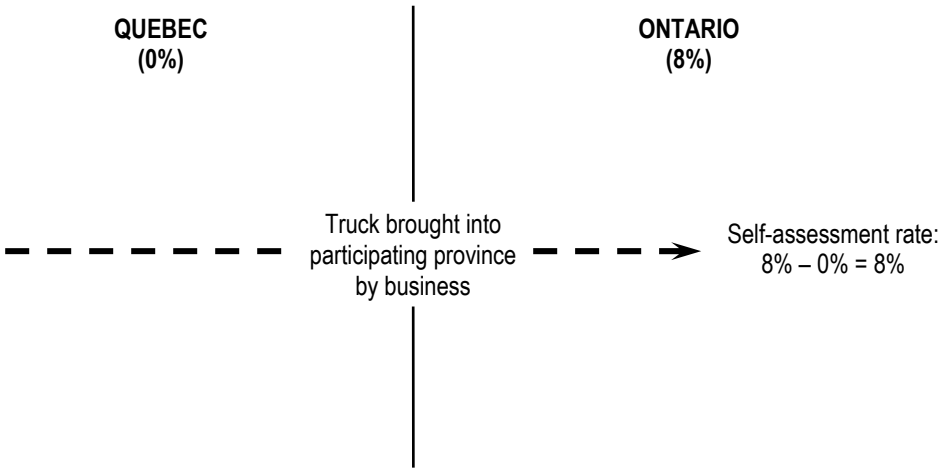
On January 18, 2011, the individual subsequently returns to New Brunswick with the vehicle, where under the laws of that province, the vehicle must be registered within a specified number of days of the vehicle's entry into the province. The individual registers the vehicle before it is required to be registered and is required at that time to self-assess tax and pay the tax to the provincial licensing authority in New Brunswick at the rate of 8%.



Example 11

A business brings a specialized truck from Quebec into Ontario for two weeks to dig wells. The truck was previously only used in Quebec. The truck falls within the definition of "specified motor vehicle", but is not required to be registered under Ontario legislation relating to the registration of motor vehicles.

Despite the truck being a specified motor vehicle, if it is not required to be registered in Ontario, it will be treated like other tangible personal property with respect to when tax becomes payable in respect of the truck. As a result, tax in respect of the truck will become payable by the business at the provincial rate of 8% when it is brought into Ontario, instead of on the earlier of the day the truck is registered, or required to be registered, in Ontario.



Non-taxable property

(Subsection 220.05(3) and sections 10, 12 and 23 of the Regulations)

The provincial part of the HST is not required to be self-assessed in respect of tangible personal property brought into a participating province:

- where the property is included in Part I of Schedule X to the Act and is not prescribed property (paragraph 220.05(3)(a)); or
- in prescribed circumstances (paragraph 220.05(3)(b)).

Appendix E includes a flowchart that summarizes the rules under subsection 220.05(3) governing the exceptions to the self-assessment of the provincial part of the HST in respect of tangible personal property brought into a participating province by a person.

Non-taxable property included in Part I of Schedule X that is not prescribed property (paragraph 220.05(3)(a) and sections 12 and 23 of the Regulations)

Under paragraph 220.05(3)(a), the provincial part of the HST is not payable in respect of tangible personal property brought into a participating province by a person if it is included in Part I of Schedule X and is not prescribed property. As explained below, to determine whether property qualifies as non-taxable property under paragraph 220.05(3)(a) it is necessary to consider the provisions of Part I of Schedule X and sections 12 and 23 of the Regulations.

Property included in Part I of Schedule X

Part I of Schedule X to the Act lists tangible personal property that is conditionally relieved of the provincial part of the HST when it is brought into a participating province by a person. Generally, tangible personal property described in Part I includes:

- tangible personal property that would generally be zero-rated (i.e., subject to tax at the rate of 0%) under Schedule VI (zero-rated supplies) (section 15 of Part I of Schedule X);
- certain tangible personal property that is relieved of tax when imported pursuant to Schedule VII (non-taxable importations); and
- tangible personal property, other than a specified motor vehicle, that is brought into a province by a registrant and that is to be consumed, used or supplied exclusively (i.e., 90% or more for registrants other than financial institutions and 100% for financial institutions) in the registrant's commercial activities, provided the registrant does not use the Quick Method of Accounting, the Special Quick Method of Accounting for Public Service Bodies, or the net tax calculation for charities (section 22 of Part I of Schedule X).

Appendix F contains Part I of Schedule X in its entirety, while Appendix G contains the text of Schedule VII, some of which is relevant for purposes of Schedule X.

Prescribed property under section 23 of Part I of Schedule X and section 23 of the Regulations

Section 23 of Part I of Schedule X provides that prescribed property that is brought into a participating province in prescribed circumstances, subject to such terms and conditions as may be prescribed, is non-taxable property. For purposes of section 23 of Part I of Schedule X, section 23 of the Regulations prescribes property where the requirement to self-assess the provincial part of the HST is relieved. Section 23 of the Regulations is similar to some of the relieving provisions under Part I of Schedule X, but addresses situations where tangible personal property is brought into a participating province after being removed from another participating province.

Prescribed property for purposes of paragraph 220.05(3)(a)

Pursuant to section 12 of the Regulations, property that is included in section 18, 20 or 21 of Part I of Schedule X to the Act is prescribed property for purposes of paragraph 220.05(3)(a), except if the property is included in another section (other than sections 18, 20 and 21) of that Part.

Section 18 describes property that is brought into a participating province by a person after having been supplied to the person by another person in circumstances in which tax was payable in respect of the property by the person under subsection 165(2) or section 218.1.

Section 20 describes property that is brought into a participating province by a person after having been imported by the person in circumstances in which:

- tax was not payable under section 212 in respect of the property because of section 213; or
- tax was payable under section 212.1 and the person was not entitled to a rebate of that tax under section 261.2.

Section 21 describes property that is brought into a participating province by a person after having been used in, and removed from, a participating province by the person and in respect of which the person was not entitled to claim a rebate under section 261.1.

Property that is included in sections 18, 20 and 21 may still qualify as non-taxable property under paragraph 220.05(3)(a), if it is included under another section of Part I of Schedule X. This includes property that is included in the similar, but more restrictive, paragraphs 23(d), (f) and (g) of the Regulations. Also, property that does not qualify as non-taxable property under paragraph 220.05(3)(a) can still qualify as non-taxable property under paragraph 220.05(3)(b), as explained below.

The following examples illustrate the application of the various provisions referred to above that are relevant for purposes of determining whether property is non-taxable under paragraph 220.05(3)(a). The examples also include an explanation of each of the paragraphs of section 23 of the Regulations.

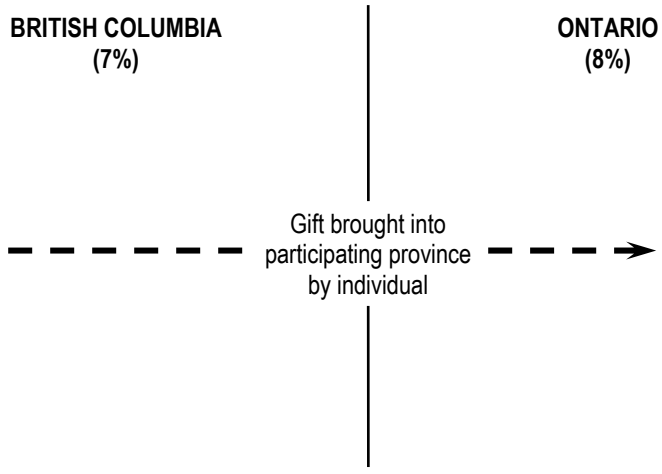
Paragraph 23(a) – Casual donations and gifts

Paragraph 23(a) of the Regulations describes donations and gifts between people in participating provinces, and is similar in scope to section 6 of Part I of Schedule X to the Act.

Specifically, the provision describes tangible personal property that is sent as a casual donation by a person in a participating province to a person in another participating province, or that is brought into a particular participating province by a person who is resident in a participating province as a gift to a person in the particular participating province. The fair market value of the donation or gift must not exceed $60 under such regulations as the Minister of Public Safety and Emergency Preparedness may make for purposes of heading 98.16 of Schedule I to the *Customs Tariff*. Advertising matter, tobacco and alcoholic beverages are excluded.

Example 12

An individual who lives in British Columbia purchases a birthday gift for a relative who lives in Ontario. The individual purchases the gift for $50 in British Columbia and pays HST at the rate of 12%, and brings the gift along when he travels to Ontario to visit his family. The gift is not advertising matter, tobacco or an alcoholic beverage.



The property is included in section 18 of Part I of Schedule X, but it is also included in section 23 of Part I of Schedule X by virtue of being included in paragraph 23(a) of the Regulations. Specifically, because the gift is described in another provision of Part I of Schedule X, it is not prescribed property under section 12 of the Regulations. The individual is therefore relieved under paragraph 220.05(3)(a) from self-assessing tax in respect of the gift when he brings it into Ontario.

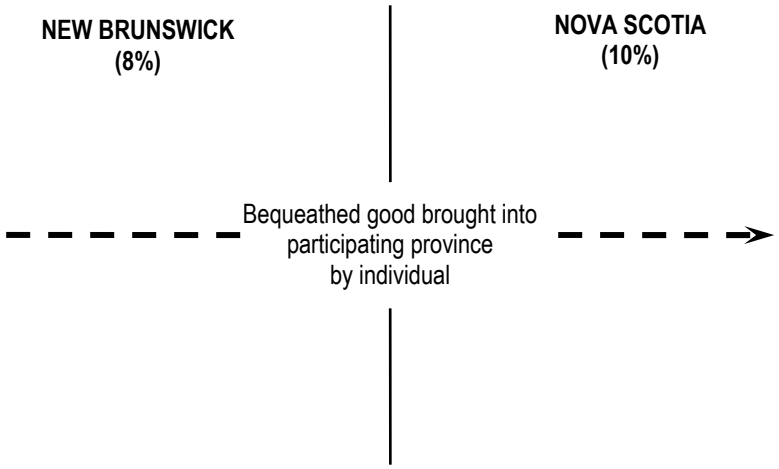
Paragraph 23(b) – Bequests

Paragraph 23(b) of the Regulations describes tangible personal property that is given as a gift or bequest to an individual who is resident in a participating province and is similar in scope to section 10 of Part I of Schedule X to the Act.

Specifically, the provision describes tangible personal property given as a gift or bequest to an individual who is resident in a participating province and that is brought into a participating province. The property must either be the personal and household effects of an individual who died in a participating province and was resident in a participating province at the time of death, or personal and household effects that are received by an individual who is resident in a participating province, as a result or in anticipation of the death of an individual who was resident in a participating province.

Example 13

An individual who lives in New Brunswick dies unexpectedly. The individual's will lists a number of beneficiaries who each receive various possessions that were owned by her. Pursuant to the will, a friend who lives in Nova Scotia receives a mantle clock worth $1,500 that the individual owned for a number of years. The friend brings the clock into Nova Scotia.



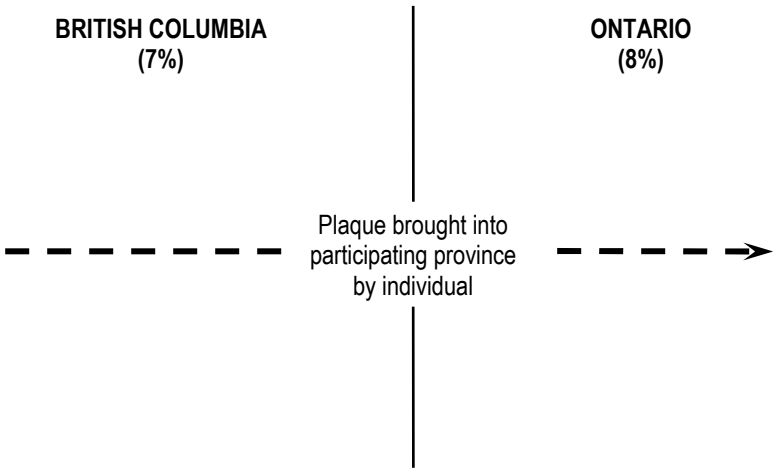
The clock is not prescribed property under section 12 of the Regulations because it is included elsewhere in Part I of Schedule X (specifically, under paragraph 23(b) of the Regulations made under that Part). The friend is therefore relieved from having to self-assess tax.

Paragraph 23(c) – Medals, trophies and other prizes

Paragraph 23(c) of the Regulations describes medals, trophies and other prizes and is similar in scope to section 11 of Part I of Schedule X to the Act. Specifically, the provision is restricted to medals, trophies and other prizes that are not usual merchantable goods. They must be won in a competition occurring in a participating province, bestowed, received or accepted in a participating province, or be donated by a person in a participating province for heroic deeds, valour or distinction.

Example 14

An individual who lives in Ontario participates in a fishing derby while on vacation in British Columbia. The individual wins an award for the most fish caught, and in honour of his achievement, he receives a plaque engraved with his name. The individual brings the plaque back to Ontario at the end of the vacation.

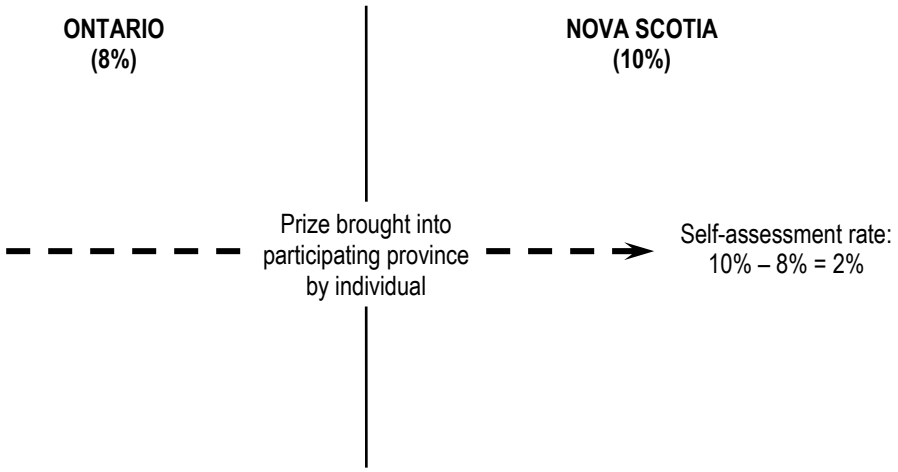


The plaque is a prize won in a competition held in a participating province and is not a usual merchantable good. As a result, the plaque is not prescribed property under section 12 of the Regulations and is included in section 23 of Part I of Schedule X and the individual is relieved under paragraph 220.05(3)(a) from having to self-assess tax in respect of the plaque.

Example 15

An individual who lives in Nova Scotia wins a home theatre system worth $3,000 in a contest held in Ontario. The individual accepts delivery of the system in Ontario, uses it for a few weeks in Ontario and returns to Nova Scotia with the system.

The theatre system is prescribed property under section 12 of the Regulations because the system was used in Ontario and it is not included under any other provision in Part I of Schedule X because it is a usual merchantable good. As a result, tax becomes payable by the individual in respect of the system when it is brought into Nova Scotia.



Paragraph 23(d) – Property previously subject to provincial part of the HST

Paragraph 23(d) of the Regulations describes property in respect of which the provincial part of the HST previously applied at a provincial rate equal to or higher than the provincial rate of the particular participating province in which the property is brought into. As explained in the previous section, this property would be considered to be prescribed property for purposes of paragraph 220.05(3)(a). This provision is similar in scope to section 18 of Part I of Schedule X to the Act. Specifically, the provision applies where:

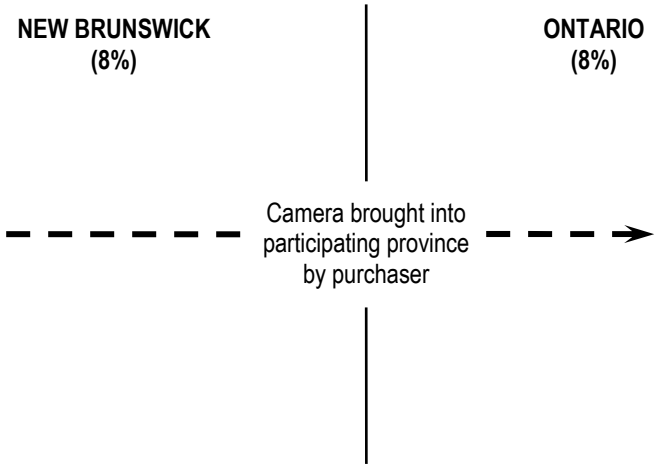
- tangible personal property is brought into a particular participating province at a particular time by a person; and

- the provincial part of the HST of a participating province was payable by the person either under subsection 165(2) in respect of a supply of the property made in a participating province, under subsection 218.1(1) in respect of an imported taxable supply of the property, or under Division IV.1, at an equal or higher provincial rate than the provincial rate for the participating province at the particular time.

Further, to be included under the provision, the tangible personal property could not have been a specified item in the participating province at the time the provincial part of the HST was previously payable, and the person bringing the property into the particular participating province could not have been entitled to a rebate under section 261.1 of any part of the provincial part that was previously payable. Generally, section 261.1 provides a rebate to a purchaser of tangible personal property supplied in a participating province who removes the property from that province to another province with a lower provincial rate within 30 days after the property is delivered to the person.

Example 16

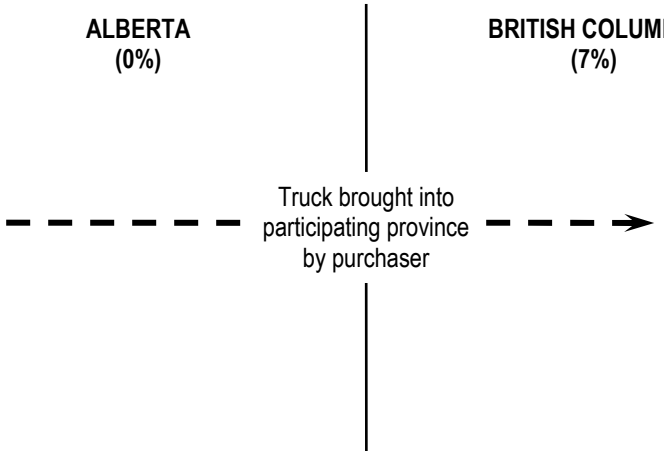
An individual who lives in Ontario and is visiting New Brunswick purchases a camera for personal use from a New Brunswick retailer for $400. The individual picks up the camera at the retailer's premises and pays HST at the rate of 13% to the retailer in respect of the supply, consisting of the 5% federal part and the 8% provincial part of the HST in New Brunswick. The individual returns to Ontario with the camera six weeks after purchasing it.



The camera would not be prescribed property under section 12 of the Regulations because it is included elsewhere in Part I of Schedule X (specifically, paragraph 23(d) of the Regulations made under that Part). As a result, the individual bringing the camera into Ontario would be relieved under paragraph 220.05(3)(a) from the requirement to self-assess the provincial part of the HST in respect of it.

Example 17

A municipality located in British Columbia purchases a truck that is a specified motor vehicle from a dealer located in Alberta. The dealer ships the truck to the municipality's depot. The supply of the truck is made in British Columbia and HST at the rate of 12%, which includes the 7% provincial part of the HST, is collected by the dealer in respect of the supply.



The provincial part of the HST was payable at a rate of 7% by the municipality in respect of a supply of the truck, which is equal to the provincial rate for British Columbia. When the truck is brought into British Columbia, it is not prescribed property under section 12 of the Regulations because it is described elsewhere in Part I of Schedule X (specifically, under paragraph 23(d) of the Regulations made under that Part). The municipality is therefore relieved under paragraph 220.05(3)(a) from having to self-assess tax in respect of the truck.

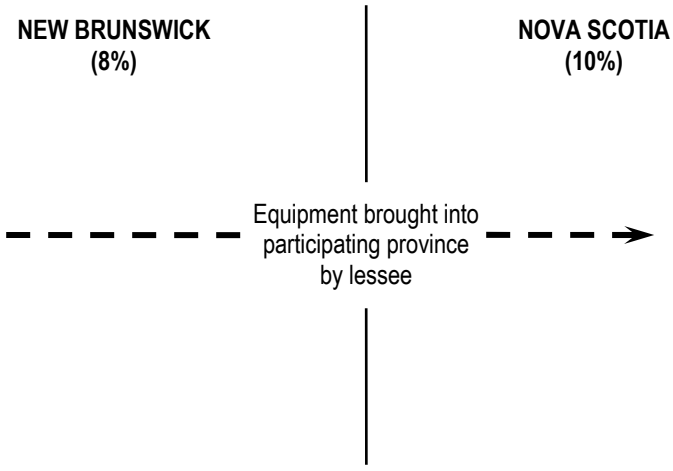
Paragraph 23(e) – Property leased for more than three months

This provision is similar in scope to section 19 of Part I of Schedule X to the Act.

Paragraph 23(e) of the Regulations describes tangible personal property brought into a participating province by a person at a particular time when it is being supplied in a participating province to the person by way of lease, licence or similar arrangement under which continuous possession or use of the property is provided for a period of more than three months and in circumstances in which tax under subsection 165(1) (the GST or federal part of the HST) is payable by the person in respect of the supply.

Example 18

A non-profit organization located in Nova Scotia leases equipment for a six-month period from a company located in New Brunswick for use in Nova Scotia. Under the contract, each lease interval is a calendar month and the non-profit organization is required to make monthly lease payments on the first business day of each month, beginning on April 1, 2011, which is the day the non-profit organization takes delivery of the equipment in New Brunswick. All of the supplies of the equipment under the lease are made in Canada. Because the supplies are made in New Brunswick based on the ordinary location of the equipment being in that province, the non-profit organization is required to pay HST at the rate of 13% when it makes its first payment. The non-profit organization brings the equipment into Nova Scotia on April 3, 2011.



The equipment is not prescribed property because the property is included elsewhere under Part I of Schedule X (specifically, under paragraph 23(e) of the Regulations made under that Part). Thus the business is relieved under paragraph 220.05(3)(a) from self-assessing tax when the equipment is brought into Nova Scotia.

Paragraph 23(f) – Property previously subject to provincial part of HST on importation

Paragraph 23(f) of the Regulations covers the tax treatment of tangible personal property that is brought into a particular participating province after the provincial part of the HST of another participating province previously applied in respect of the property, when it was imported, at a provincial rate equal to or higher than the provincial rate for the particular participating province. This provision is similar in scope to section 20 of Part I of Schedule X to the Act.

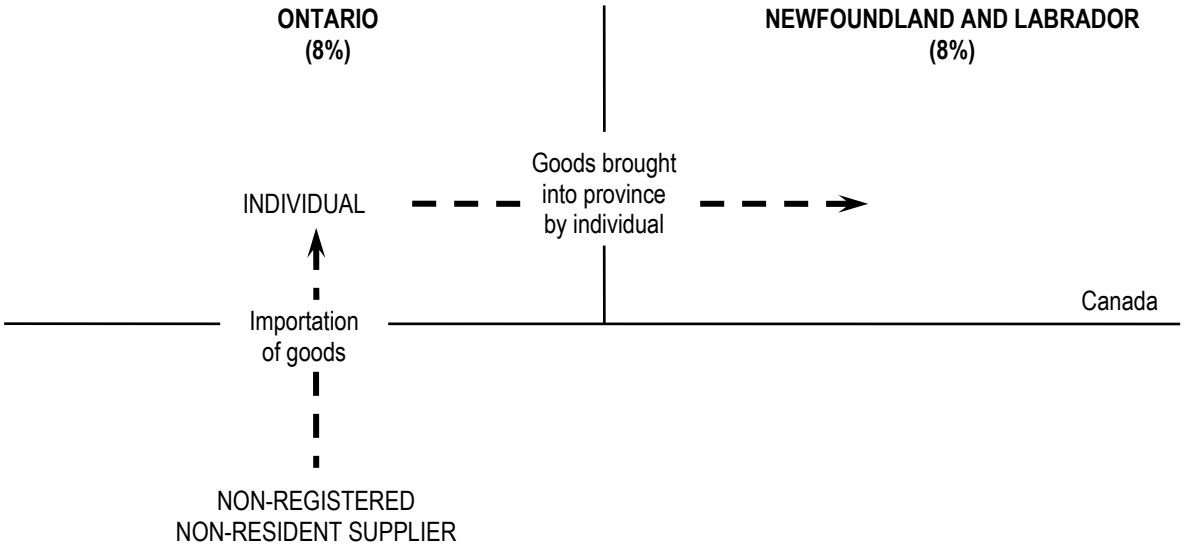
Specifically, the provision applies where:

- tangible personal property is brought into a particular participating province at a particular time; and
- the property was previously imported from outside Canada into another participating province where the provincial part of the HST previously applied under subsection 212.1(2) at a provincial rate that was equal to or higher than the provincial rate for the particular participating province at the particular time.

Further, to be included under the provision, the tangible personal property could not have been a specified item in respect of the participating province at the time the provincial part of the HST was previously payable, and the person bringing the property into the particular participating province could not have been entitled to a rebate under section 261.2 of any part of the provincial part that was previously payable. Generally, section 261.2 provides a rebate to a person who is resident in a particular participating province and who imports property at a place in another province for consumption or use exclusively in any province other than the particular participating province.

Example 19

An individual who lives in Ontario purchases goods for $400 from a non-registered non-resident supplier. Based on the terms of delivery in the sales agreement, the goods are supplied to the individual outside Canada. When the goods are imported by the individual at a border crossing in Ontario, the goods are accounted for under the *Customs Act* as non-commercial goods, and the individual pays HST at the rate of 13%, consisting of the 5% federal part and the 8% provincial part of the HST in Ontario. The individual intends to give the goods as gifts, each worth $200, to two relatives who live in Newfoundland and Labrador on her next vacation there.



The goods are not prescribed property when the individual brings them into Newfoundland and Labrador because the goods are described elsewhere under Part I of Schedule X (specifically, under paragraph 23(f) of the Regulations made under that Part). Thus, there is relief from self-assessment under paragraph 220.05(3)(a).

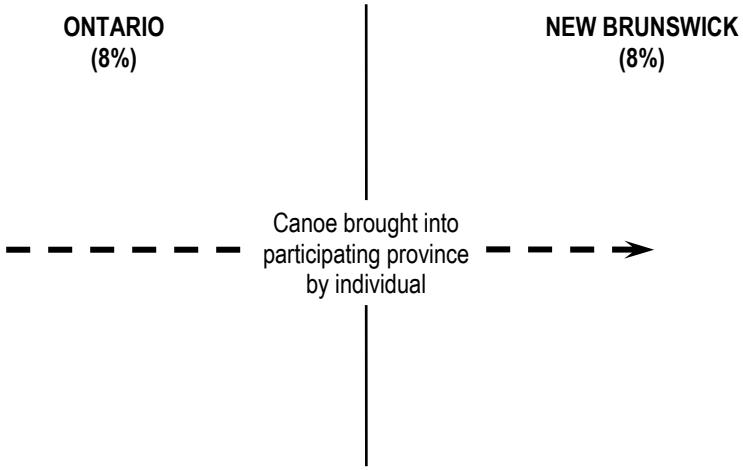
Paragraph 23(g) – Property previously used in any participating province

Paragraph 23(g) of the Regulations describes tangible personal property brought into a particular participating province after having been, at any time, used in, and, at another time, removed from, any another participating province with a provincial rate that was at the time of its removal equal to or higher than the provincial rate in the particular participating province. This provision is similar in scope to section 21 of Part I of Schedule X to the Act.

Further, to be included under the provision, the tangible personal property could not have been a specified item in the participating province at the time the provincial part of the HST was previously payable, and the person bringing the property into the particular participating province could not have been entitled to a rebate under section 261.1 of any part of the provincial part that was previously payable. Generally, section 261.1 provides a rebate to a purchaser of tangible personal property supplied in a participating province who removes the property from that province to another province with a lower provincial rate within 30 days after the property is delivered to the person.

Example 20

A person who is a resident of New Brunswick purchases a canoe for $500 in Ontario from a non-registered small supplier. The supply of the canoe is made in Ontario. The individual uses the canoe in Ontario and a few weeks later brings the canoe into New Brunswick, where the canoe does not qualify as a specified item.



The canoe is not prescribed property under section 12 of the Regulations because it is described elsewhere under Part I of Schedule X (specifically under paragraph 23(g) of the Regulations made under that Part). The person is therefore relieved under paragraph 220.05(3)(a) from the requirement to self-assess tax in respect of the canoe when it is brought into New Brunswick.

Paragraph 23(h) – Specified motor vehicles not subject to GST

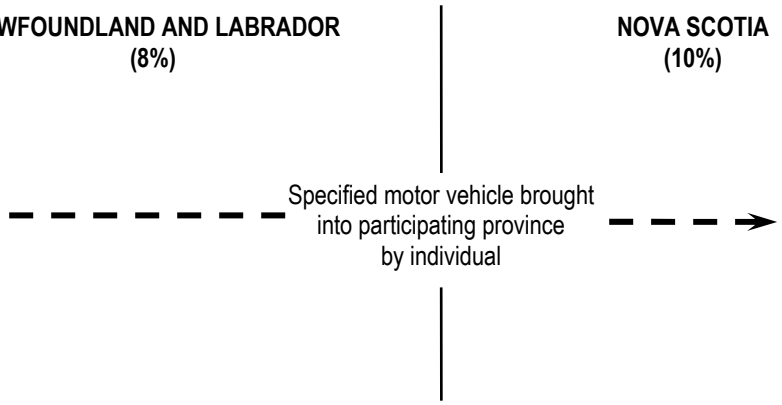
Paragraph 23(h) of the Regulations describes a specified motor vehicle brought into a particular participating province by a person after being supplied by way of sale in a participating province to the person in circumstances where tax under subsection 165(1) (the GST or federal part of the HST) was not payable in respect of the supply.

Thus, where the federal part of the HST does not apply in respect of a sale in another participating province of a specified motor vehicle, paragraph 23(h) of the Regulations provides that the provincial part of the HST will also not apply when the vehicle is brought into a particular participating province. A person bringing a vehicle into a particular participating province will therefore not be required in this case to self-assess the provincial part of the HST payable in respect of the vehicle. However, it is possible that the particular participating province may, under separate provincial legislation, impose a provincial motor vehicle tax in lieu of the federal and provincial parts of the HST, and collect the tax when the vehicle is registered by the particular participating province's

licensing authority. Because such a tax is imposed pursuant to provincial legislation, the provincial tax treatment in these cases may vary across each participating province.

Example 21

An individual who lives in Nova Scotia purchases a specified motor vehicle from another individual who lives in Newfoundland and Labrador and who is not a GST/HST registrant. The place of supply of the vehicle is in Newfoundland and Labrador. Because the transaction is a private sale, neither the 5% federal part of the HST, nor the 8% provincial part of the HST in Newfoundland and Labrador, is payable in respect of the vehicle.

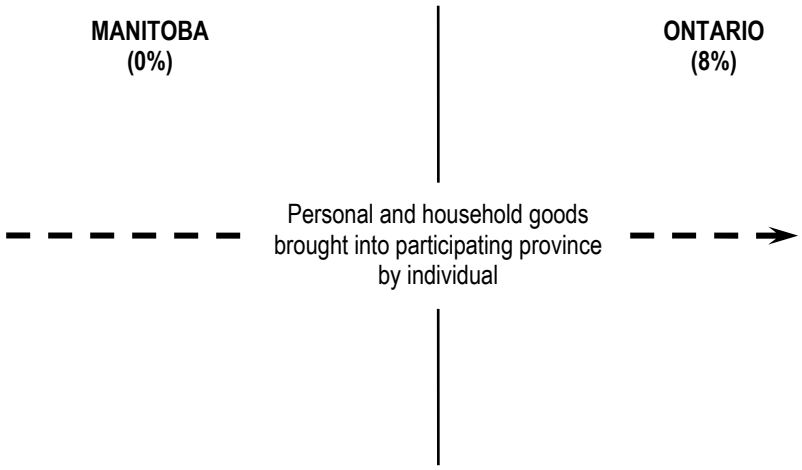


The vehicle is not prescribed property under section 12 of the Regulations because it is described elsewhere under Part I of Schedule X (specifically, under paragraph 23(h) of the Regulations made under that Part). The purchaser is relieved by paragraph 220.05(3)(a) from having to self-assess the provincial part of the HST applicable in Nova Scotia.

Other examples involving Part I of Schedule X

Example 22

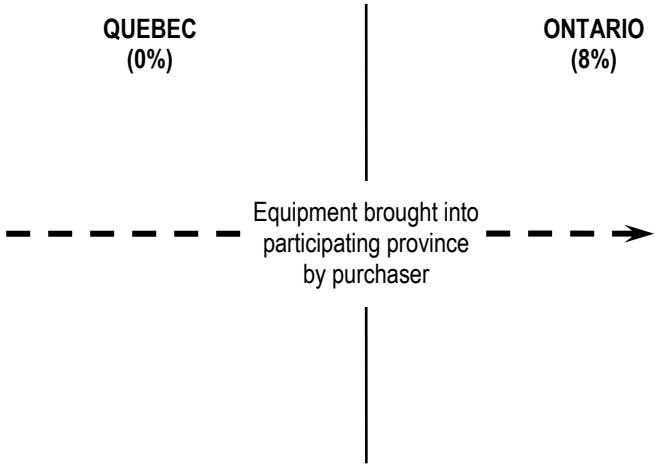
An individual who has lived in Manitoba his entire life moves to Ontario, and brings his personal and household goods with him. The goods were acquired in Manitoba, have been owned by the individual for at least 31 days, and were in his possession before the move.



Although the individual is bringing tangible personal property into Ontario, the individual is entering the province at that time with the intention of establishing a residence for a period of not less than 12 months (circumstances described by section 9 of Part I of Schedule X). As a result, self-assessment of the provincial part of the HST is not required in respect of the goods when the individual brings them into Ontario.

Example 23

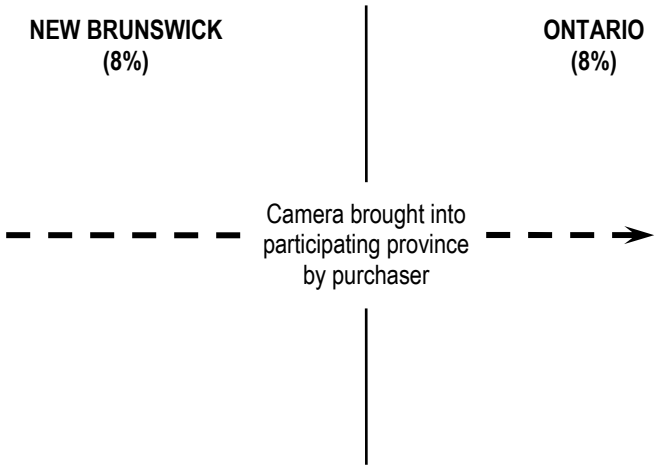
A registered business located in Ontario purchases equipment that is supplied in Quebec. The equipment is acquired by the business for exclusive use in the course of its commercial activities. The business pays GST at a rate of 5% in respect of the supply and brings the equipment into Ontario.



Although the business is bringing the equipment into Ontario, the business is a registrant and will use it exclusively in its commercial activities. Because the circumstances under section 22 of Part I of Schedule X are met, tax is not payable by the business in respect of the equipment when it is brought into Ontario.

Example 24

The facts of this example are the same as those in Example 16, where an individual who lives in Ontario brings a camera into the province after it was supplied by way of sale to the individual in New Brunswick and HST at the rate of 13% applied in respect of the supply.

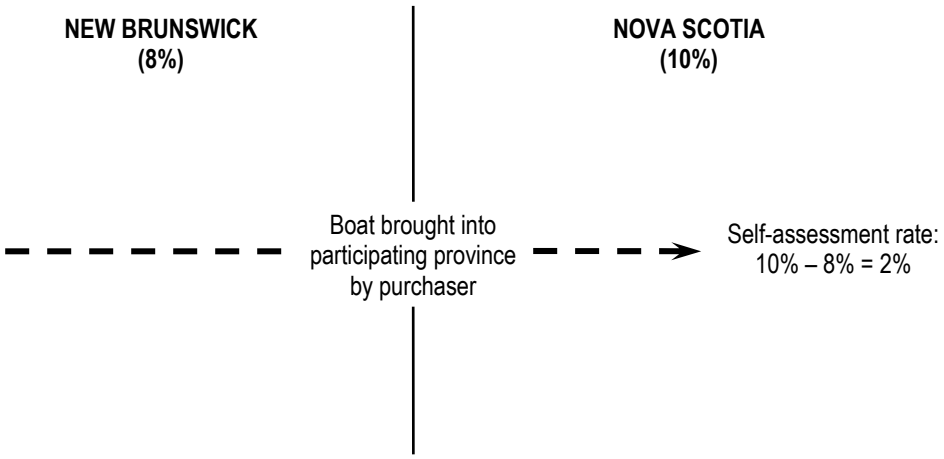


The camera would be included in section 18 of Part I of Schedule X to the Act because tax was already payable by the individual under subsection 165(2) in respect of the supply. Property brought into a participating province in these circumstances is also not prescribed property under section 12 of the Regulations since the property is included in section 23 of Part I of Schedule X. Paragraph 220.05(3)(a) therefore relieves the individual from self-assessing tax in respect of the camera that is brought into Ontario.

Example 25

An individual who lives in New Brunswick purchases, for personal use, a boat for $7,000 (which is equal to its fair market value) that is supplied to the individual in New Brunswick. The individual pays HST at the rate of 13% in respect of the supply to the supplier. The boat will be used only during the summer months at the individual's cottage in Nova Scotia.

The boat would be included in section 18 of Part I of Schedule X to the Act because tax was already payable by the individual under subsection 165(2) in respect of the supply at the provincial rate for New Brunswick. However, property brought into a participating province in these circumstances is also prescribed property under section 12 of the Regulations, and the property is not included in another section of Part I of Schedule X. Paragraph 220.05(3)(a) therefore does not relieve the person from self-assessing tax in respect of the boat that is brought into Nova Scotia. The amount of tax that the individual is required to self-assess is equal to $140 (2% (10% Nova Scotia provincial rate – 8% New Brunswick provincial rate) × $7,000 (the value of the consideration for the supply of the boat)).



Prescribed circumstances under paragraph 220.05(3)(b)

A person who brings into a participating province tangible personal property that does not qualify as non-taxable property under paragraph 220.05(3)(a) (i.e., that is not included in Part I of Schedule X, or that is included in Part I but is also prescribed property under section 12 of the Regulations), may still be relieved of the obligation to self-assess the provincial part of the HST in respect of the property under paragraph 220.05(3)(b) in prescribed circumstances. These prescribed circumstances are set out in section 10 of the Regulations.

Prescribed circumstances under section 10 of the Regulations

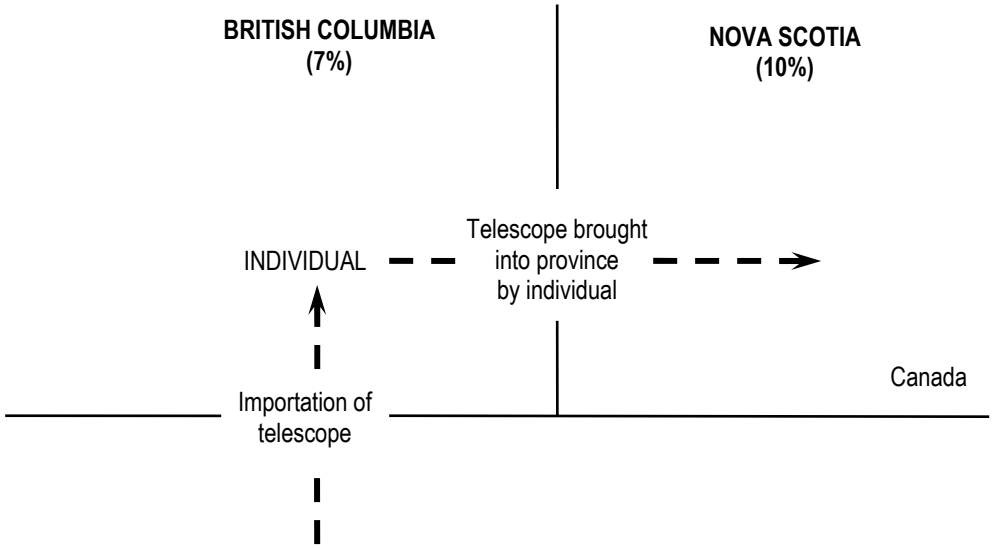
Pursuant to paragraph 10(a) of the Regulations, self-assessment is not required by a person in respect of tangible personal property that is brought into a participating province if the person is an unregistered non-resident supplier who supplied the property to a recipient that paid tax under section 220.06 in respect of the supply (as explained under the heading "Tax on tangible personal property supplied by non-registered non-resident suppliers") and the property was delivered or made available to the recipient in the participating province or sent by mail or courier to an address in that province.

In addition, pursuant to paragraph 10(b) of the Regulations, self-assessment is not required if the total of all amounts of tax that would become payable by the person under Division IV.1 in a calendar month would be $25 or less without the application of this $25 threshold and the $25 thresholds in respect of sections 220.06 and 220.08 explained below. The calculation of this threshold does not include any amount that would be deducted under subsection 220.09(3) from the tax payable under Division IV.1 because it is a prescribed amount for purposes of subsection 234(3) in respect of a point-of-sale rebate in respect of property or a service that is a specified item in the participating province in which the tangible personal property is brought.

In the case of property that is a specified motor vehicle that the person is required to register under the laws of the participating province relating to the registration of motor vehicles, the threshold is based on the calendar month that includes the day that is the earlier of the day on which the person registers the vehicle and the day on or before which the person is required to register the vehicle. In any other case, the threshold is based on the calendar month that includes the day on which the property is brought into the participating province.

Example 26

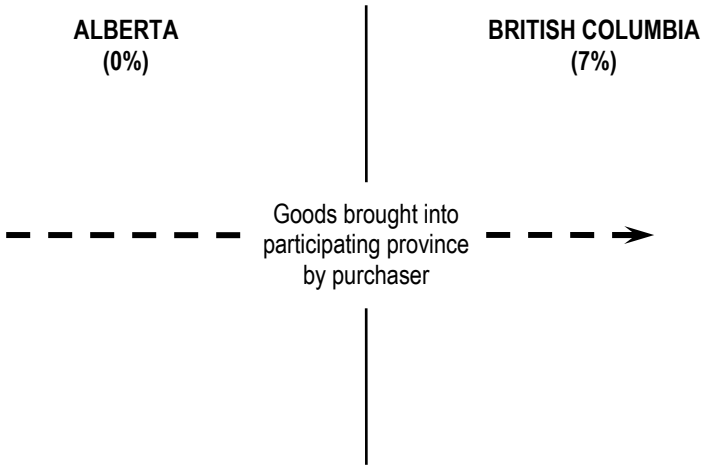
An individual who lives in British Columbia purchases a telescope, valued at $500, from a non-resident supplier as a gift for a family member in Nova Scotia. The telescope is sent to the individual in British Columbia, who at importation pays HST at the rate of 12%, consisting of the 5% federal part and the 7% provincial part of the HST in British Columbia under section 212.1. As a result, the total HST paid was $60 ($500 × 12%). The individual travels to Nova Scotia, bringing the telescope with her.



Because the individual has paid the provincial part of the HST imposed under section 212.1, the telescope is prescribed property under the Regulations, and the individual is not relieved under paragraph 220.05(3)(a) from the requirement to self-assess tax in respect of the telescope brought into Nova Scotia. The individual therefore determines that she would owe $15 in tax payable under Division IV.1 in respect of the telescope. However, no other tax under Division IV.1 is payable by the individual in the calendar month that includes the day on which the telescope is brought into Nova Scotia. As a result, the telescope is being brought into Nova Scotia in prescribed circumstances, since the total tax owing by the individual in the calendar month does not exceed the $25 threshold prescribed in section 10 of the Regulations. The individual is therefore relieved by paragraph 220.05(3)(b) from having to self-assess tax in respect of the telescope.

Example 27

An individual who lives in British Columbia and is visiting Alberta purchases goods from various retailers in Alberta that the individual picks up at the retailers' premises. Only GST at a rate of 5% is collected by the retailer in respect of the goods. The total value of the goods is $300, of which $200 represents children's goods that qualify as specified items in British Columbia.

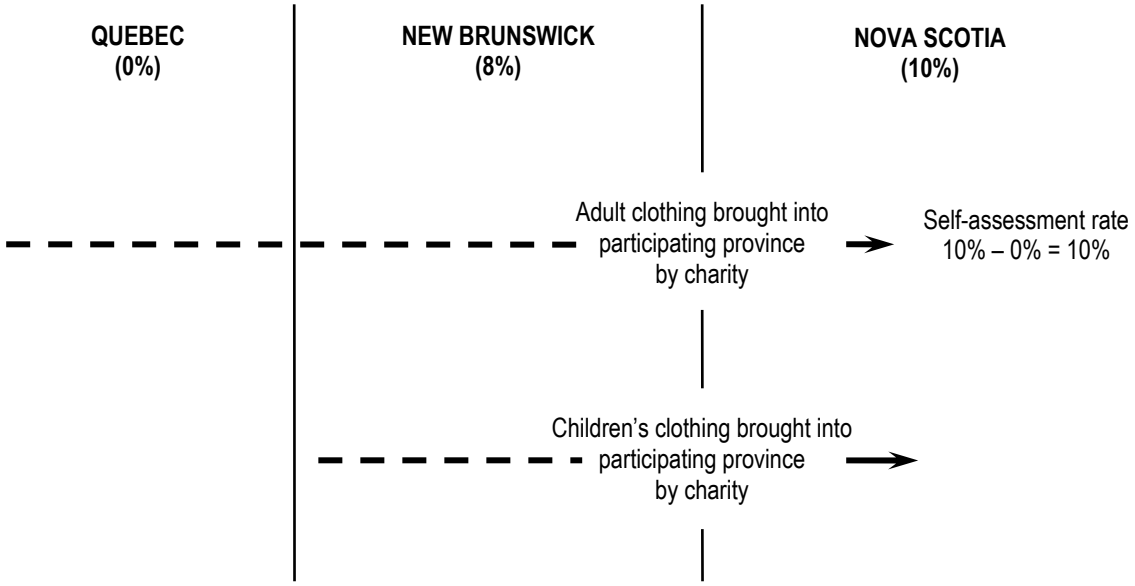


The individual returns to British Columbia with the goods. Self-assessment of the provincial part of the HST for British Columbia would be required in respect of the total value of the goods, other than those that are specified items in the province, brought into the province in a calendar month. The individual determines that $7 (7% (7% British Columbia provincial rate – 0% Alberta provincial rate) × $100 (value of the consideration for the supply of goods that are not specified items in BC)) in tax payable under Division IV.1 would be payable in respect of the goods. However, no other tax under Division IV.1 is payable by the individual in the calendar month that includes the day on which the goods are brought into British Columbia. As a result, the goods are brought into British Columbia in prescribed circumstances, because the total Division IV.1 tax owing by the individual in the calendar month does not exceed the $25 threshold prescribed in section 10 of the Regulations. Therefore, under paragraph 220.05(3)(b), tax is not payable by the individual in respect of the goods.

Example 28

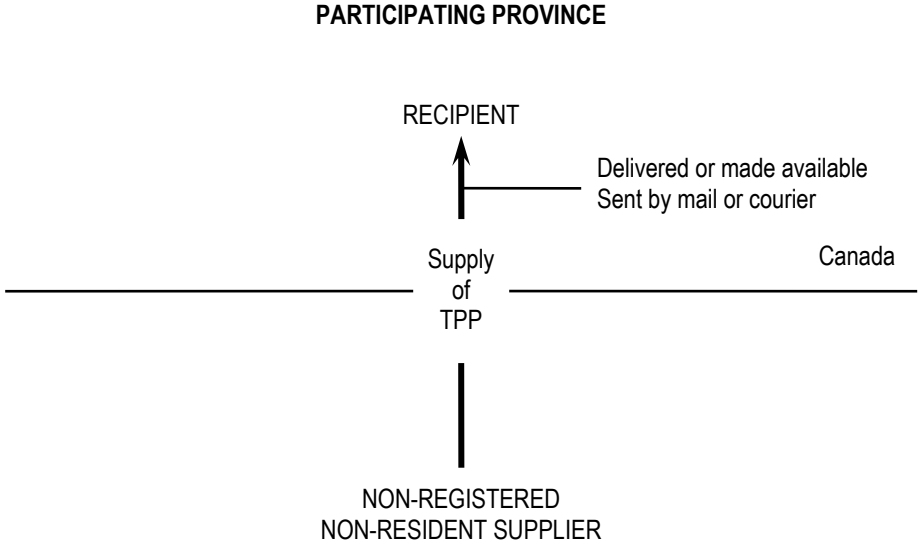
In a calendar month, a charity located in Nova Scotia purchases children's clothing for $1,000 from a supplier in New Brunswick and adult clothing for $500 from a supplier in Quebec. Pursuant to the contracts with the suppliers, the charity takes delivery of the clothing at the suppliers' premises and then ships them to its location in Nova Scotia in the calendar month. HST at the rate of 13% was collected in respect of the clothing supplied in New Brunswick, and GST at a rate of 5% was collected in respect of the clothing supplied in Quebec.

The children's clothing purchased in New Brunswick is a specified item and is therefore excluded from the calculation of the amount of tax to be self-assessed. The charity must self-assess the provincial part of the HST for Nova Scotia in respect of the total value of the clothing purchased in Quebec and brought into the province in the calendar month, including the clothing that is a specified item in the province. The charity determines that the amount of tax payable is equal to $50 (10% (10% Nova Scotia provincial rate – 0% Quebec provincial rate) × $500 (value of the consideration of clothing purchased in Quebec)). As a result, the clothing purchased in Quebec is not brought into Nova Scotia in prescribed circumstances, because the total tax owing under Division IV.1 by the charity in the calendar month exceeds the $25 threshold prescribed in the Regulations, and the charity must self-assess this tax.



II. Tax on tangible personal property supplied by non-registered non-resident suppliers

(Subsection 220.06(1))



Unless a specific exception applies, a recipient of a supply of tangible personal property that is delivered or made available to the recipient in a participating province, or that is sent by mail or courier to an address in the participating province, at a particular time by a non-resident supplier who is not registered for GST/HST purposes, is required to self-assess the provincial part of the HST for the province in respect of the property. The amount of tax to be self-assessed in this case is determined by multiplying the provincial rate for the participating province by the value of the tangible personal property.

If the tangible personal property was supplied to a recipient by way of an arm's length sale made by a non-resident, the value of the property in respect of which the provincial part of the HST is payable is equal to the lesser of the value of the consideration paid or payable in respect of the supply and the fair market value of the property at the particular time. In any other case, the value of the tangible personal property is equal to the fair market value of the property at the particular time.

If the tangible personal property were prescribed property supplied in prescribed circumstances, the value of the property would be determined in a prescribed manner. However, there are currently no regulations that exist to prescribe such property or circumstances.

The actual formula for determining the amount of tax payable under subsection 220.06(1) is equal to

$$A \times B$$

where

A is the tax rate for the participating province; and

B is

(a) if the supply of the property was made to the person by way of sale by a non-resident person with whom the person dealt at arm's length, the lesser of the value of the consideration paid or payable in respect of the supply and the fair market value of the property at the particular time;

(b) notwithstanding paragraph (a), in the case of prescribed property supplied in prescribed circumstances, the value determined in the prescribed manner; and

(c) in any other case, the fair market value of the property at the particular time.

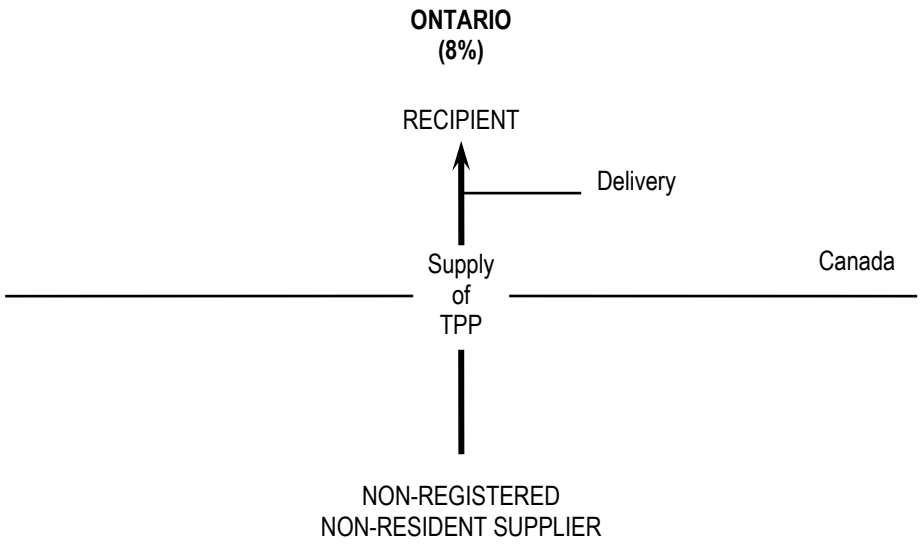
Application in offshore areas

(Subsection 220.06(4))

A recipient of a supply of tangible personal property by an non-registered non-resident is not required to self-assess the provincial part of the HST in respect of the property where it is delivered or made available to the recipient, or sent to an address, in the Nova Scotia or Newfoundland offshore area unless the property is acquired by the recipient for consumption, use or supply in the course of an offshore activity.

Example 29

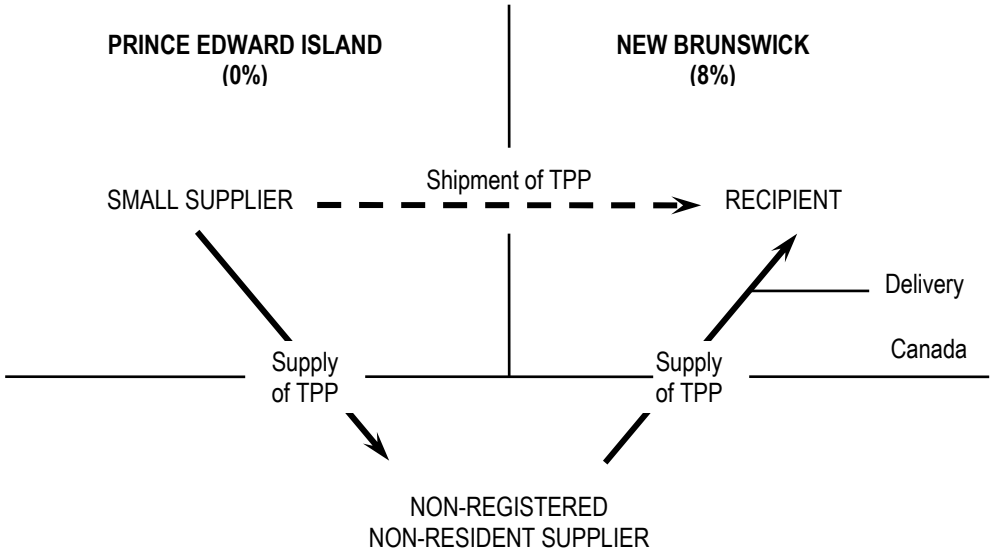
A school authority in Ontario orders taxable goods, for use in its exempt activities, from an arm's length non-resident that is not registered for GST/HST for a price of $500 (which is equal to the fair market value of the goods). Based on the terms of the agreement for the supply, the goods are to be delivered to the school authority in Ontario. The supplier imports the goods accounting for them as commercial goods and delivers the goods to the school authority in Ontario. The supplier only pays GST at a rate of 5% with respect to the importation of the goods. The supplier has not paid tax in respect of the goods under either section 220.05 (explained in the previous section) or section 220.07 (explained in the next section).



The school authority is a recipient of a taxable supply of goods that are, at a particular time, delivered or made available to the school authority in a participating province, Ontario, by a non-resident supplier who is not registered for GST/HST. The amount of tax that is payable by the school authority under subsection 220.06(1) in respect of the goods is equal to $40 (8% Ontario provincial rate × $500 (the value of the consideration for the supply)).

Example 30

A charity located in New Brunswick purchases taxable goods, for use in its exempt activities, from a related person that is a non-registered non-resident. Based on the terms of the agreement for the supply, the goods are to be delivered to the charity in New Brunswick. Although the goods have a fair market value of $400, the charity purchases the goods from the non-resident for $100. The non-resident purchases the goods from a related unregistered small supplier located in Prince Edward Island for $100, and instructs the small supplier to deliver them to the charity at its New Brunswick premises, which the charity receives three days later.



The charity is a recipient of a taxable supply of goods that are, at a particular time, delivered or made available to the charity in a participating province, New Brunswick, by a non-resident supplier who is not registered for GST/HST. When the goods are delivered, tax under subsection 220.06(1) therefore becomes payable by the charity at the provincial rate of 8% for New Brunswick. Because the charity and the non-resident supplier do not deal with each other on an arm's length basis, the charity is required to self-assess tax based on the fair market value of the goods. The charity is therefore required to self-assess tax equal to $32 (8% New Brunswick provincial rate × $400 (the fair market value of the goods)).

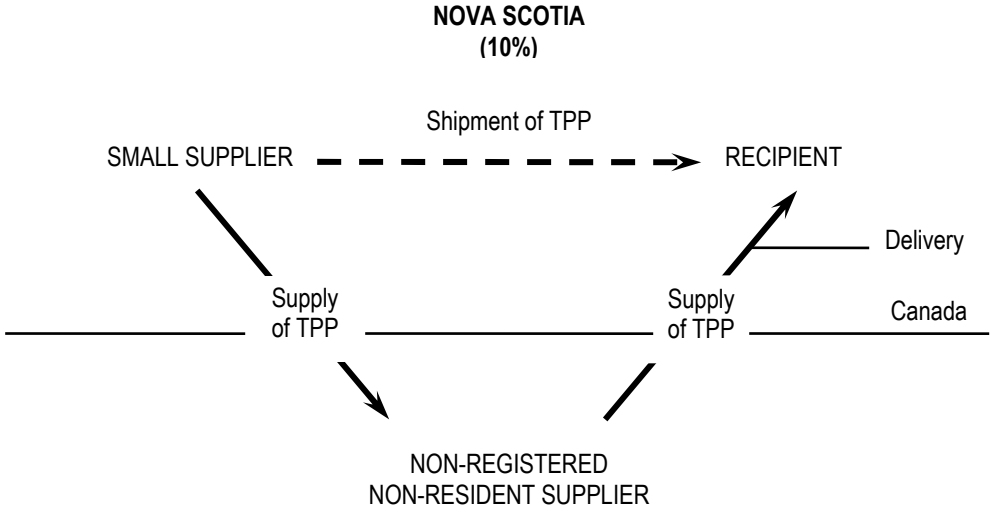
When the tax becomes payable

(Subsection 220.06(2))

The provincial part of the HST becomes payable in respect of the tangible personal property on the day the property is delivered or made available to the recipient in the province. The manner in which to self-assess the tax is explained in Section 4, Returns and Payments of Tax, of this publication.

Example 31

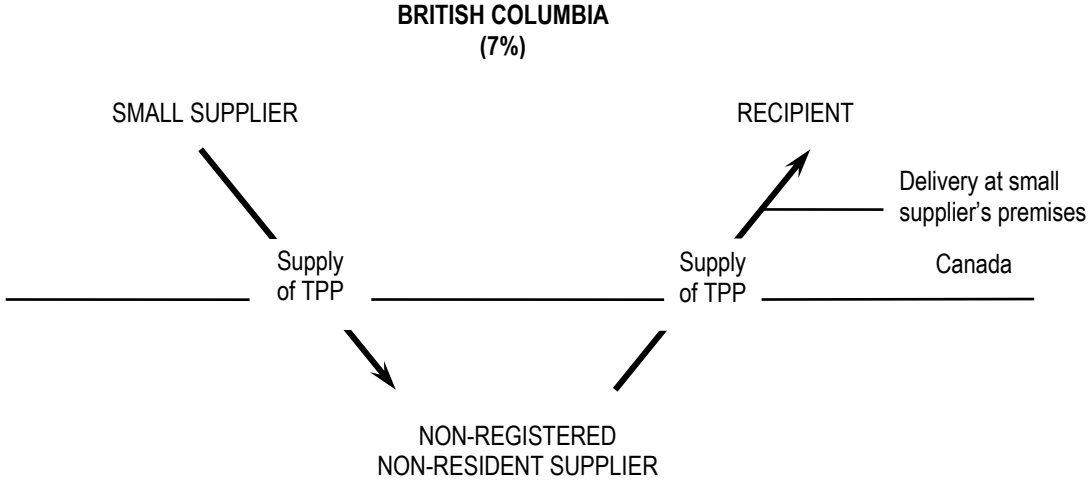
An individual who lives in Nova Scotia places an order for goods with a non-registered non-resident for a purchase price of $300 (which is equal to their fair market value). The goods are purchased by the non-resident from a small supplier located in Nova Scotia, and the non-resident instructs the small supplier to deliver the goods to the individual. The goods are delivered to the individual at the individual's residence on October 5, 2010.



Tax under subsection 220.06(1) becomes payable by the individual on October 5, 2010, because that is the day on which the goods were delivered to the individual in Nova Scotia. The amount of tax payable is equal to $30 (10% Nova Scotia provincial rate × $300 (the value of the consideration for the goods)).

Example 32

A business located in British Columbia purchases goods from a non-registered non-resident for a price of $500 (which is equal to their fair market value). The non-resident purchases the goods from an unregistered small supplier located in British Columbia. Pursuant to the contract between the business and the non-resident, delivery of the goods to the business occurs at the small supplier's premises when the full amount of consideration is paid. The business is responsible for hiring a carrier to get the goods. The business is not engaged exclusively in commercial activities.



The business pays the full amount owing on July 25, 2010, and the carrier arrives at the small supplier's premises to pick up the goods, but the goods are not delivered to the business until August 1, 2010. Despite this, tax under subsection 220.06(1) becomes payable by the business on July 25, 2010, because that is the day on which the goods were made available to the business. The amount of tax payable is equal to $35 (7% British Columbia provincial rate × $500 (the value of the consideration for the goods)).

Non-taxable property

(Subsection 220.06(3) and sections 11, 12 and 23 of the Regulations)

The provincial part of the HST is not required to be self-assessed in respect of tangible personal property that is supplied to a person by a non-registered non-resident and delivered or made available to the person in a participating province, or sent by mail or courier to an address in a participating province:

- where the property is a specified motor vehicle required to be registered under the motor vehicle registration laws of a participating province (paragraph 220.06(3)(a));
- where the property is included in Part I of Schedule X to the Act and is not prescribed property (paragraph 220.06(3)(a)); or
- under prescribed circumstances (paragraph 220.06(3)(b)).

Appendix H includes a flowchart that summarizes the rules under subsection 220.06(3) governing the exceptions to the self-assessment of the provincial part of the HST in respect of tangible personal property that is supplied to a person by an unregistered non-resident and delivered or made available to the person in a participating province, or sent by mail or courier to an address in a participating province.

Property under Part I of Schedule X that is not prescribed property (paragraph 220.06(3)(a) and sections 12 and 23 of the Regulations)

With respect to Part I of Schedule X to the Act, the scope of relief from self-assessment of the provincial part of the HST under paragraph 220.06(3)(a) is the same as the relief found under paragraph 220.05(3)(a) as explained under the heading "Non-taxable property" under the section "Tax on tangible personal property brought into a participating province" of this bulletin. A brief explanation of Part I of Schedule X is also found under that heading, while Appendix F contains the text of Part I of Schedule X.

To determine whether property qualifies as non-taxable property under paragraph 220.06(3)(a), it is necessary to consider the provisions of Part I of Schedule X, and sections 12 and 23 of the Regulations.

Pursuant to section 12 of the Regulations, property that is included in section 18, 20 or 21 of Part I of Schedule X to the Act is prescribed property for purposes of paragraph 220.06(3)(a), except if the property is included in another section (other than sections 18, 20 and 21) of that Part.

For purposes of section 23 of Part I of Schedule X to the Act, section 23 of the Regulations prescribes property in respect of which the requirement to self-assess the provincial part of the HST is relieved in respect of tangible personal property that is supplied by a non-registered non-resident to a recipient and the property is delivered or made available to the recipient in a participating province, or sent by mail or courier to an address in a participating province. The situations contemplated by section 23 of the Regulations are similar to specific relieving provisions under Part I of Schedule X, but address scenarios where the tangible personal property was previously removed from another participating province. A person who is the recipient of a supply, by an unregistered non-resident, of prescribed property that is delivered or made available in a participating province, or that is sent by mail or courier to an address in a participating province, in the prescribed circumstances described under section 23 of the Regulations will therefore be relieved of the requirement to self-assess tax in respect of the property.

Part I of this section of the publication, as it relates to non-taxable property under subsection 220.05(3), describes the property that is prescribed under section 23 of the Regulations.

Section 18 describes property that is brought into a participating province by a person after having been supplied to the person by another person in circumstances in which tax was payable in respect of the property by the person under subsection 165(2) or section 218.1.

Section 20 describes property that is brought into a participating province by a person after having been imported by the person in circumstances in which:

- tax was not payable under section 212 in respect of the property because of section 213; or
- tax was payable under section 212.1 and the person was not entitled to a rebate of that tax under section 261.2.

Section 21 describes property that is brought into a participating province by a person after having been used in, and removed from, a participating province by the person and in respect of which the person was not entitled to claim a rebate under section 261.1.

Property that is included in sections 18, 20 and 21 may still qualify as non-taxable property under paragraph 220.06(3)(a) if it is included under another section of Part I of Schedule X. This includes property included in the similar but more restrictive paragraphs 23(d), (f) and (g) of the Regulations. Also, property that does not qualify as non-taxable property under paragraph 220.06(3)(a) can still qualify as non-taxable property under paragraph 220.06(3)(b), as explained below.

Prescribed circumstances (paragraph 220.06(3)(b))

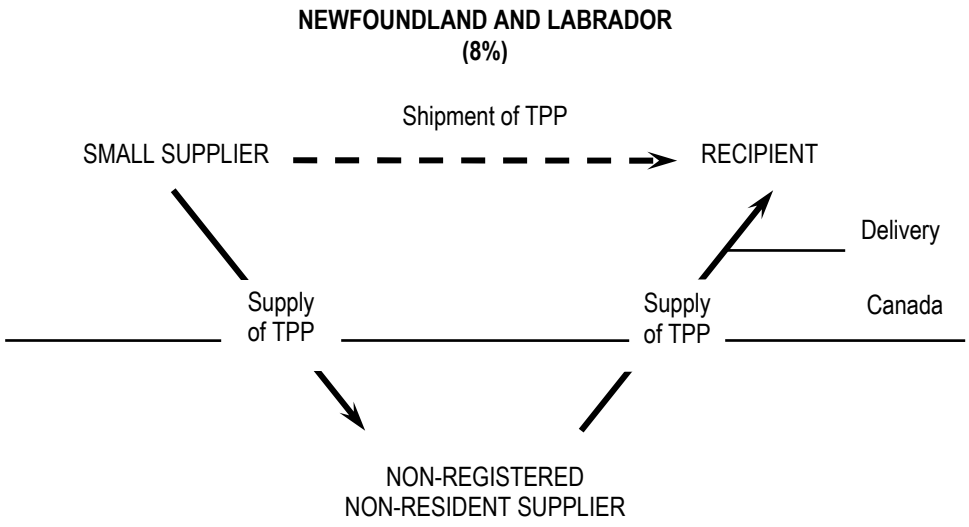
(Section 11 of the Regulations)

The requirement to self-assess the provincial part of the HST is also relieved in prescribed circumstances.

Pursuant to section 11 of the Regulations, the recipient of a supply of tangible personal property that is delivered or made available to the recipient in a participating province, or sent by mail or courier to an address in a participating province, is not required to self-assess the provincial part of the HST if tax in respect of the bringing of the property into the province was previously paid by the supplier under either section 220.05 (explained in the previous section) or section 220.07 (explained in the following section).
In addition, self-assessment is not required where the total amount of tax that would become payable by the person under Division IV.1 in a calendar month would be $25 or less without the application of this $25 threshold and the $25 thresholds in respect of sections 220.05 and 220.08. The calculation of this threshold does not include any amount that would be deducted under subsection 220.09(3) from the tax payable under Division IV.1 because it is a prescribed amount for purposes of subsection 234(3) in respect of a point-of-sale rebate in respect of property that is a specified item in the participating province.

Example 33

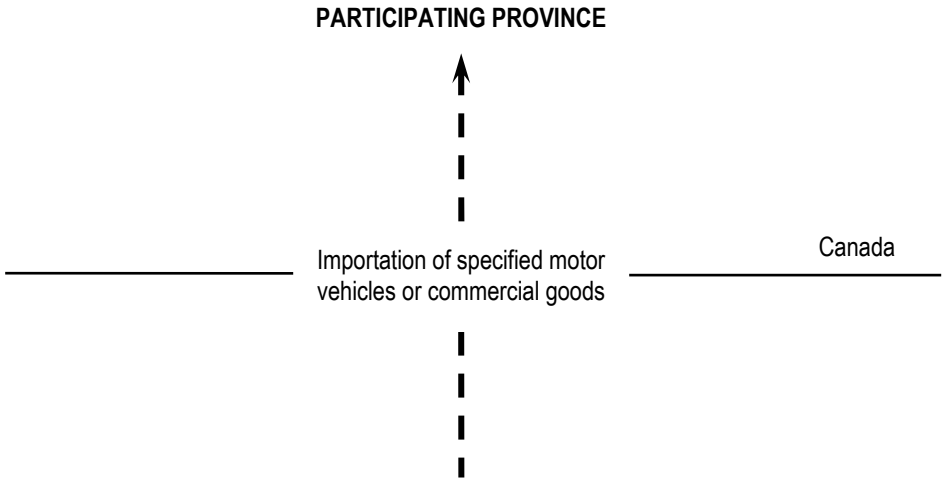
An individual who lives in Newfoundland and Labrador purchases goods for $250 (which is equal to their fair market value) from a non-registered non-resident. The non-resident purchases the goods from a small supplier located in Newfoundland and Labrador, and has the goods delivered to the individual.



The total tax under section 220.06 that would be payable by the individual in respect of the goods that are delivered or made available to the individual in Newfoundland and Labrador in the calendar month would be equal to $20 (8% Newfoundland and Labrador provincial rate × $250 (value of consideration for the goods)). No other tax under Division IV.1 is payable by the individual in that month and the tax that would be payable in respect of the goods does not exceed the $25 threshold prescribed in the Regulations. Therefore, under paragraph 220.06(3)(b), tax is not payable by the individual in respect of the goods.

III. Tax on imported commercial goods and specified motor vehicles

(Subsections 220.07(1) and (3))



Appendix I contains definitions and concepts that are relevant for purposes of section 220.07.

Imported commercial goods and specified motor vehicles

(Subsections 220.07(1) and (3))

The GST generally applies on most goods when they are imported into Canada. Pursuant to section 212, a person who is liable for the payment of duties under the *Customs Act* in respect of imported goods, or who would be liable if those goods were subject to duties under that Act, is required to pay the federal part of the HST (i.e., the GST) in respect of the goods when they are imported. In addition, where a resident of a

participating province is liable, or would be liable, under that Act for the payment of duties in respect of an imported good, the resident is generally required under subsection 212.1(2) to also pay the provincial part of the HST at the rate for the participating province. However, imported goods that are either specified motor vehicles or commercial goods are excluded from the application of subsection 212.1(2). In this case, only the federal part of the HST is payable in respect of the importation of the goods into Canada. Therefore, unless an exception applies, a person who brings tangible personal property into a participating province from outside Canada that is either

- a specified motor vehicle, or
- a good accounted for as a commercial good under section 32 of the *Customs Act* and is, or would be, liable for the payment of duties under that Act in respect of the property,

is instead required under subsection 220.07(1) to self-assess the provincial part of the HST in respect of the vehicle or good at the provincial rate for the participating province.

Taxable imported goods that are not specified motor vehicles or accounted for as commercial goods are generally subject to the provincial part of the HST for a participating province under section 212.1 at the time they are imported into Canada by a resident of that province. In these cases, the tax is collected by the Canada Border Services Agency instead of being self-assessed.

Where tax is payable under subsection 220.07(1), the amount of tax payable is determined by multiplying the tax rate for the applicable participating province by the value of the commercial goods or the specified motor vehicle. The value depends on the type of good being imported.

In the case of a specified motor vehicle that a person is required to register under the motor vehicle registration laws of a participating province, the value is equal to the specified value (generally, the value determined by the provincial licensing authority) at the time it is registered in that province.

In any other case, the provincial part of the HST is calculated on the excise and duty-paid value of the tangible personal property as determined under section 215, which is the main valuation provision under the Act for purposes of determining the GST and, where applicable, the HST payable in respect of imported goods. In other words, GST/HST is applied on the total of the value of the property, as determined in accordance with the valuation methods under the *Customs Act*, and includes any duties and taxes, other than GST/HST, payable in respect of the goods.

In the case of prescribed property brought into a province in prescribed circumstances, the provincial part of the HST is applied to the prescribed value of the property. Currently, no regulations exist that prescribe the property, circumstances and valuation rules for purposes of subsection 220.07(3).

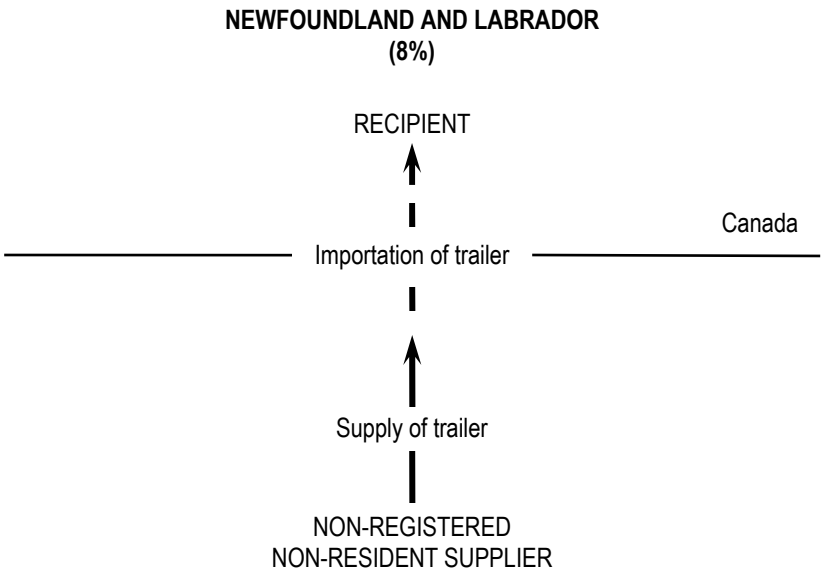
Use in offshore areas

(Subsection 220.07(5))

Self-assessment of the provincial part of the HST in respect of tangible personal property that is brought into the Nova Scotia offshore area or Newfoundland offshore area from outside Canada is not required, unless the property is brought into the area for consumption, use or supply in the course of an offshore activity.

Example 34

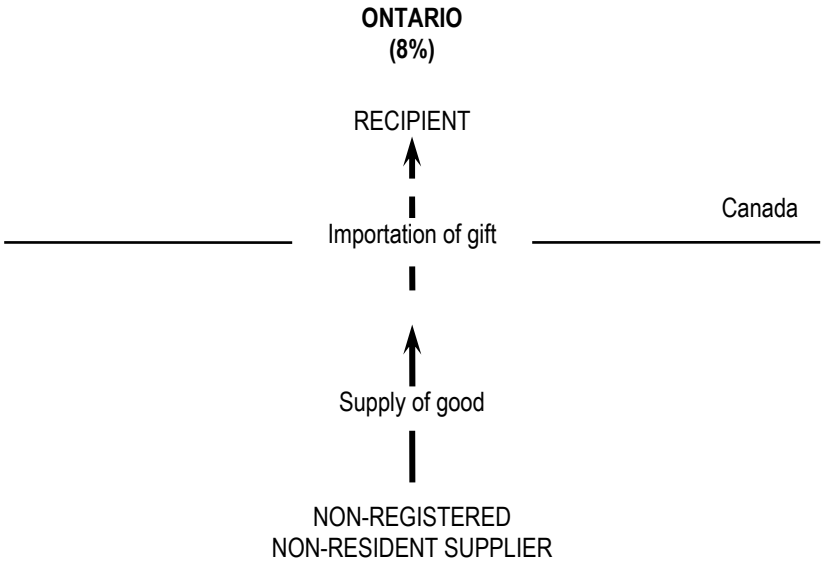
An individual who lives in Newfoundland and Labrador purchases a trailer from a non-resident for the individual's personal use. The trailer is supplied outside Canada. The trailer is a specified motor vehicle as defined under the Act. The individual imports the trailer into Newfoundland and Labrador after the purchase, where it needs to be registered with the Newfoundland and Labrador vehicle licensing authority. The specified value of the trailer determined by the licensing authority is equal to $30,000.



GST is payable at a rate of 5% in respect of the trailer when it is imported, pursuant to section 212. Because the trailer is a specified motor vehicle, the provincial part of the HST for Newfoundland and Labrador is not payable in respect of the importation, in accordance with subsection 212.1(3), despite the trailer being imported for the individual's personal use. However, tax is payable by the individual under subsection 220.07(1) in respect of the trailer. The amount of tax payable is equal to $2,400 (8% Newfoundland and Labrador provincial rate × $30,000 (the specified value of the trailer)).

Example 35

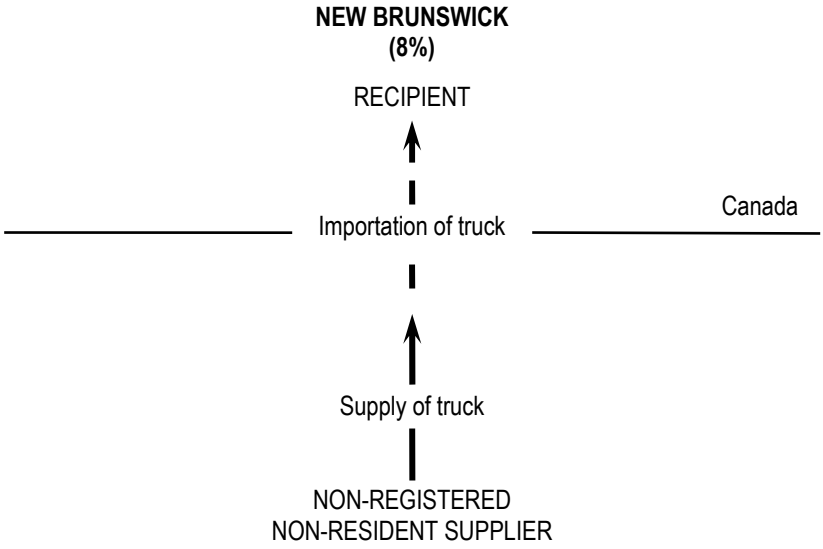
An individual who lives in Ontario and is on vacation outside Canada purchases a good valued at $200 from a non-resident as a gift for a family member who lives in Quebec. The gift is supplied to the individual outside Canada. When the individual imports the gift into Quebec, it is accounted for under the *Customs Act* as a non-commercial good.



GST is payable at a rate of 5% in respect of the gift when it is imported, pursuant to section 212. In addition, because the gift is imported by an individual who is a resident of Ontario and the gift is not a commercial good, the individual is required by section 212.1 to pay, when the gift is imported, the provincial part of HST at the provincial rate of 8% for Ontario, calculated on the gift's value. Tax is therefore not payable under subsection 220.07(1) in respect of the good.

Example 36

A business located in New Brunswick purchases a truck outside Canada from a non-resident for use by the business. The truck is supplied outside Canada. The truck is a specified motor vehicle as defined under the Act. The business imports the truck into New Brunswick after the purchase, where it needs to be registered with the New Brunswick vehicle licensing authority. The specified value of the truck determined by the licensing authority is equal to $60,000.



GST is payable at a rate of 5% in respect of the vehicle when it is imported, pursuant to section 212. Because the vehicle is a specified motor vehicle, the provincial part of the HST does not apply at importation, in accordance with subsection 212.1(3). However, tax is payable by the business under subsection 220.07(1) in respect of the truck. The amount of tax payable is equal to $4,800 (8% New Brunswick provincial rate × $60,000 (the specified value of the truck)).

Non-taxable property

(Subsection 220.07(2))

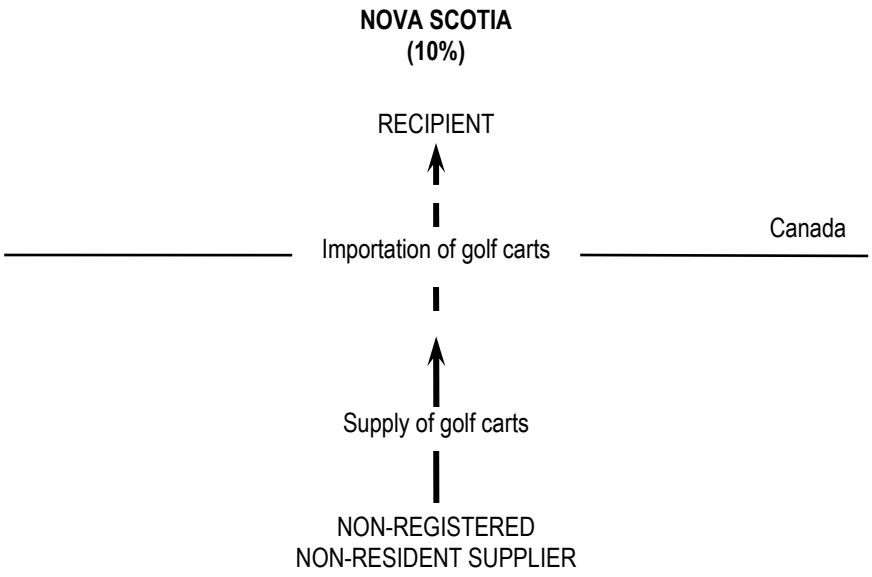
Self-assessment of the provincial part of the HST is not required in respect of tangible personal property that is imported from outside Canada into a participating province where the property is:

- a good, other than a specified motor vehicle, that is imported and brought into the province by a registrant for consumption, use or supply exclusively (i.e., 90% or more for registrants other than financial institutions and 100% for financial institutions) in the registrant's commercial activities (other than a registrant who uses the Quick Method of Accounting, the Special Quick Method of Accounting for Public Service Bodies, or the net tax calculation for charities);
- a mobile or floating home that has been used or occupied in Canada as a place of residence for individuals; or
- a good that qualifies as a non-taxable importation under Schedule VII (Non-Taxable Importations)(see Appendix G).

Appendix J includes a flowchart that summarizes the rules under subsection 220.07(2) governing the exceptions to the self-assessment of the provincial part of the HST in respect of imported goods.

Example 37

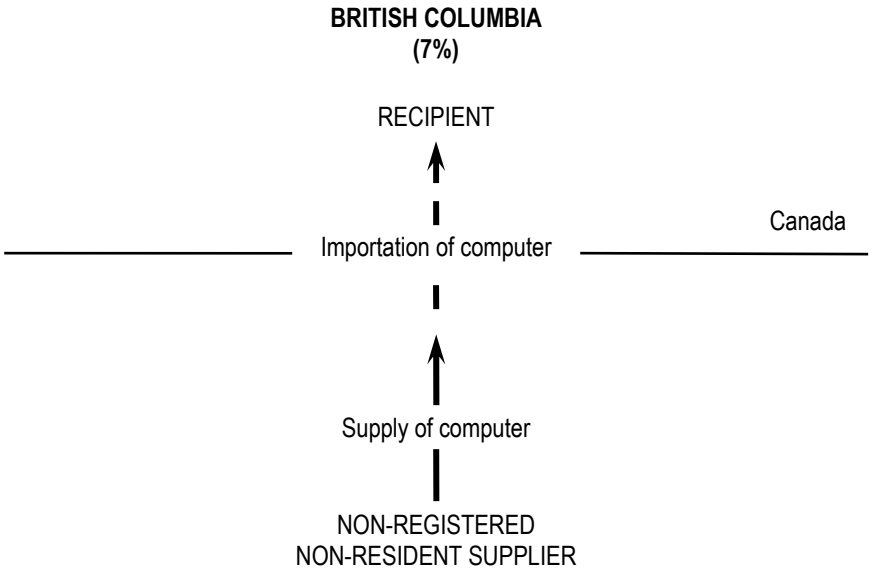
A GST/HST registered golf club located in Nova Scotia purchases golf carts from a non-resident for use by members of the club. Based on the contract's terms of delivery, the golf carts are supplied outside Canada. The golf carts are not specified motor vehicles as defined under the Act. The golf club imports the golf carts into Nova Scotia after the purchase.



GST is payable at a rate of 5% in respect of the golf carts when they are imported, pursuant to section 212. In addition, although the carts are not specified motor vehicles under the Act, the provincial part of the HST applicable in Nova Scotia would not apply at importation, in accordance with subsection 212.1(3), because they would be accounted for under the *Customs Act* as commercial goods. However, since the carts were imported by a registrant for use exclusively in the registrant's commercial activities, subsection 220.07(2) applies to relieve the club of the obligation to self-assess tax if the other conditions of that provision are met. The club therefore only pays GST at a rate of 5% in respect of the imported carts.

Example 38

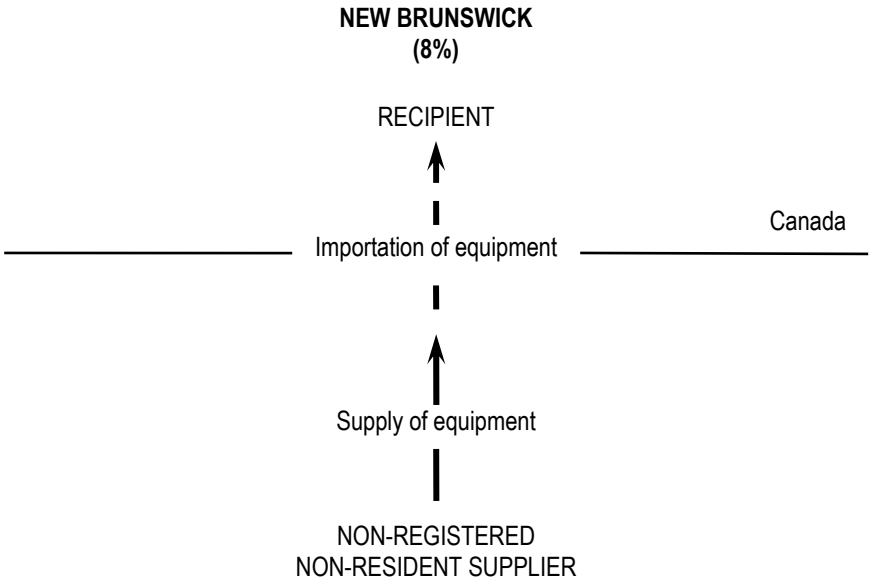
A registered individual who lives in British Columbia and works as a consultant purchases a laptop computer from a non-resident supplier exclusively for use in commercial activities. The computer is supplied outside Canada and imported by the individual into British Columbia. The computer is accounted for as a commercial good under the *Customs Act* when it is imported.



GST is payable at a rate of 5% in respect of the computer when it is imported, pursuant to section 212. Because the computer is a commercial good, the provincial part of the HST applicable in British Columbia does not apply at importation, in accordance with subsection 212.1(3). In addition, since the computer was imported by a registrant exclusively for use in the registrant's commercial activities, subsection 220.07(2) applies to relieve the individual of the obligation to self-assess tax if the other conditions of that provision are met. The individual thus only pays GST at a rate of 5% in respect of the imported computer.

Example 39

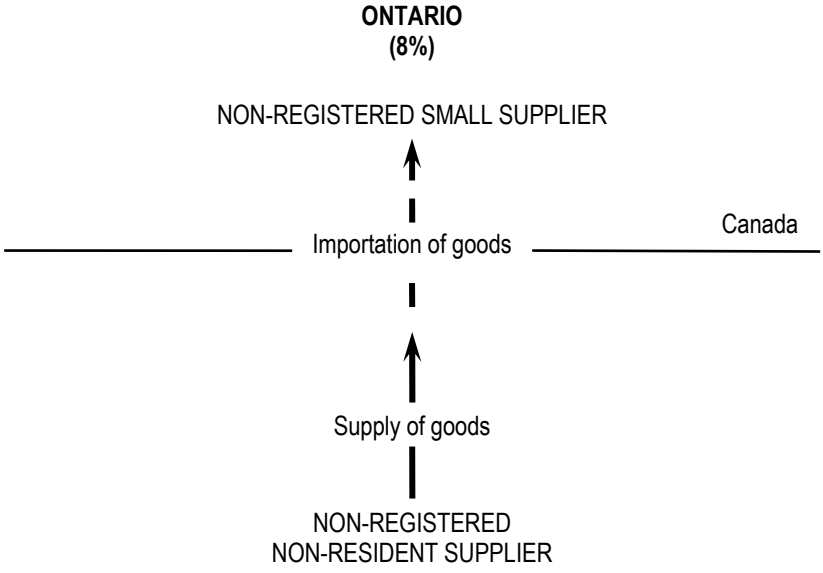
A registered business located in New Brunswick imports equipment, supplied to the business outside Canada, into the province solely for use in its operations. The business is not engaged exclusively in commercial activities, and use of the equipment is divided equally between making taxable and exempt supplies. The equipment is accounted for as a commercial good under the *Customs Act* when it is imported.



Because the equipment is accounted for as a commercial good, the provincial part of the HST does not apply under section 212.1 in respect of the equipment when it is imported. As a result, self-assessment of the tax is required under subsection 220.07(1). Subsection 220.07(2) does not apply to relieve the business from self-assessing tax in respect of the equipment because it is not brought into the province for consumption, use or supply exclusively in the commercial activities of the business. Therefore, the business is required to self-assess tax in respect of the equipment at the provincial rate of 8% for New Brunswick.

Example 40

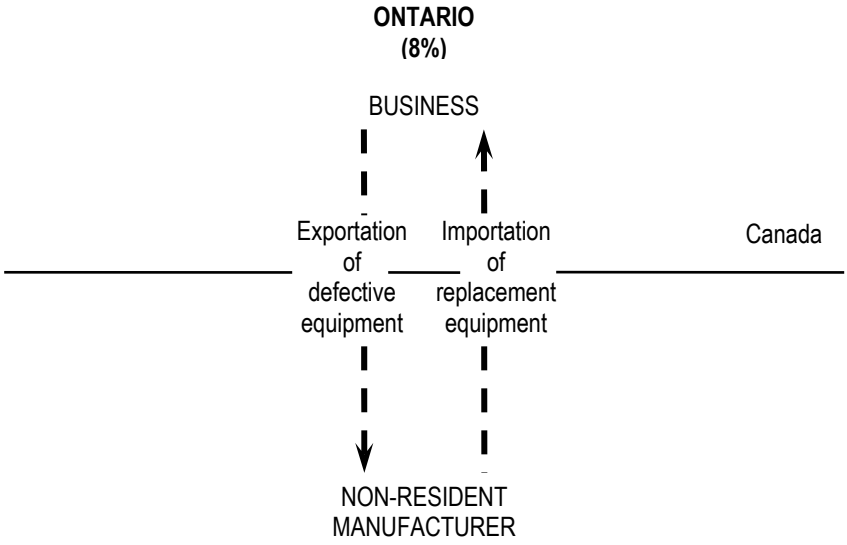
A business is located in Ontario and is a non-registered small supplier. The business imports goods, supplied to the business outside Canada by a non-registered non-resident supplier, into the province solely for use in its operations. The goods are accounted for as commercial goods under the *Customs Act* when they are imported.



Because the goods are accounted for as commercial goods, the provincial part of the HST does not apply under section 212.1 in respect of the goods when they are imported. Despite the goods being brought into New Brunswick for exclusive use in commercial activities of the business, the business is not relieved under subsection 220.07(2) from the obligation to self-assess tax because it is not a GST/HST registrant. As a result, the business is required to self-assess tax in respect of the goods under subsection 220.07(1).

Example 41

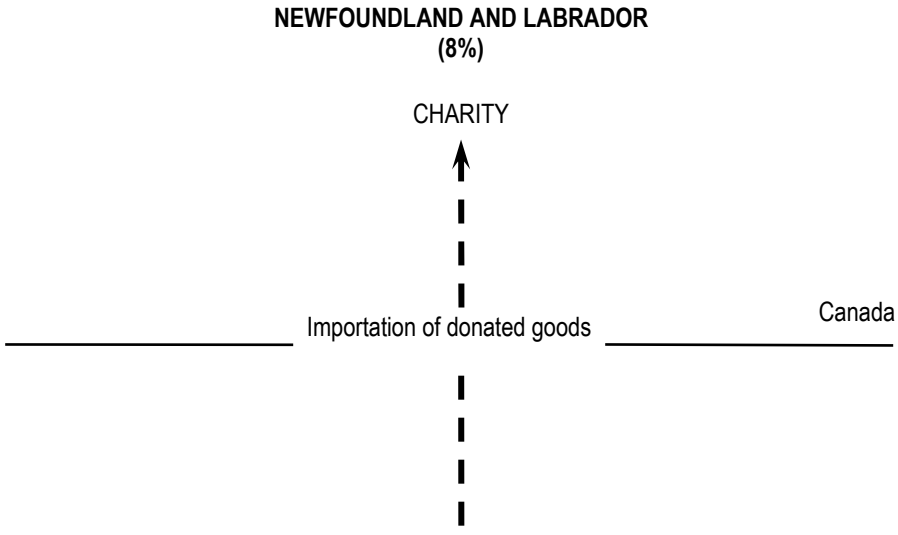
A business located in Ontario owns equipment that breaks down while the equipment is still under warranty. The business sends the equipment back to the non-resident manufacturer and accepts from the manufacturer, outside Canada, new equipment as replacement property for no consideration. The business imports the equipment into Ontario. The equipment is accounted for as a commercial good under the *Customs Act* when it is imported.



Because the equipment is accounted for as a commercial good, the provincial part of the HST does not apply under section 212.1 in respect of the equipment when it is imported. However, self-assessment of Division IV.1 tax is not required under subsection 220.07(1) because the importation of the replacement equipment by the business meets the conditions described under section 5 of Schedule VII to the Act and is therefore relieved by subsection 220.07(2).

Example 42

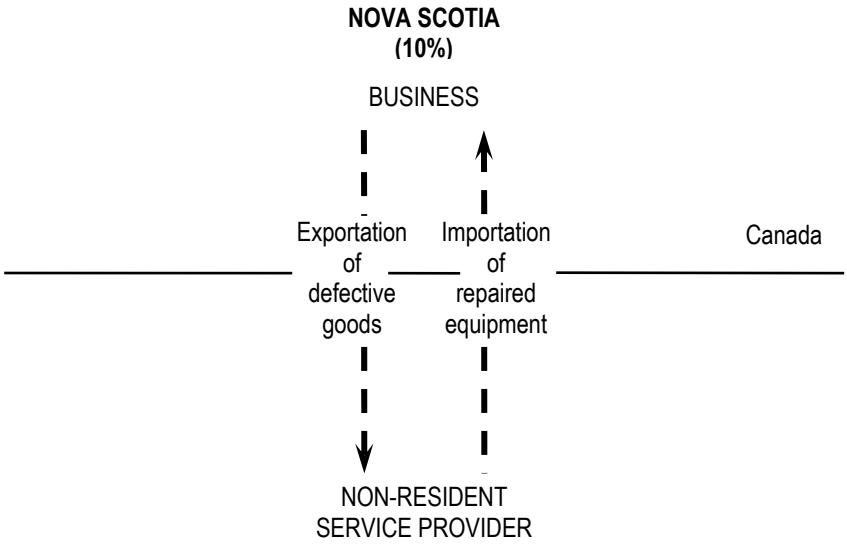
A charity located in Newfoundland and Labrador imports goods, donated to the charity outside Canada, into the province for use in its operations. All or substantially all (i.e., 90% or more) of the supplies made by the charity are exempt supplies. The donated goods are accounted for as commercial goods under the *Customs Act* when they are imported.



Because the goods are accounted for as commercial goods, the provincial part of the HST does not apply under section 212.1 in respect of the goods when they are imported. However, self-assessment of Division IV.1 tax is not required under subsection 220.07(1) since, although the donated goods are not used in a commercial activity of the charity, their importation meets the conditions described under section 4 of Schedule VII to the Act. As a result, the charity is relieved by subsection 220.07(2) from self-assessing tax in respect of the imported donated goods.

Example 43

A business located in Nova Scotia owns goods that require repair while still under warranty. The business exports the goods to a non-resident service provider, who performs the repairs outside Canada and then sends the goods back to the business. The goods are accounted for as commercial goods under the *Customs Act* when they are imported.



Because the goods are accounted for as commercial goods, the provincial part of the HST does not apply under section 212.1 in respect of the goods when they are imported. Self-assessment of the tax is therefore required under subsection 220.07(1). Under section 8 of Schedule VII to the Act, however, prescribed goods imported in prescribed circumstances and under prescribed terms and conditions may be imported without the imposition of tax. The prescribed goods and circumstances are described under the *Non-Taxable Imported Goods (GST/HST) Regulations*, which includes, under paragraph 3(j), goods imported after being exported for warranty repair work. As a result of being prescribed under Schedule VII, the business is relieved by subsection 220.07(2) from self-assessing tax in respect of the repaired goods.

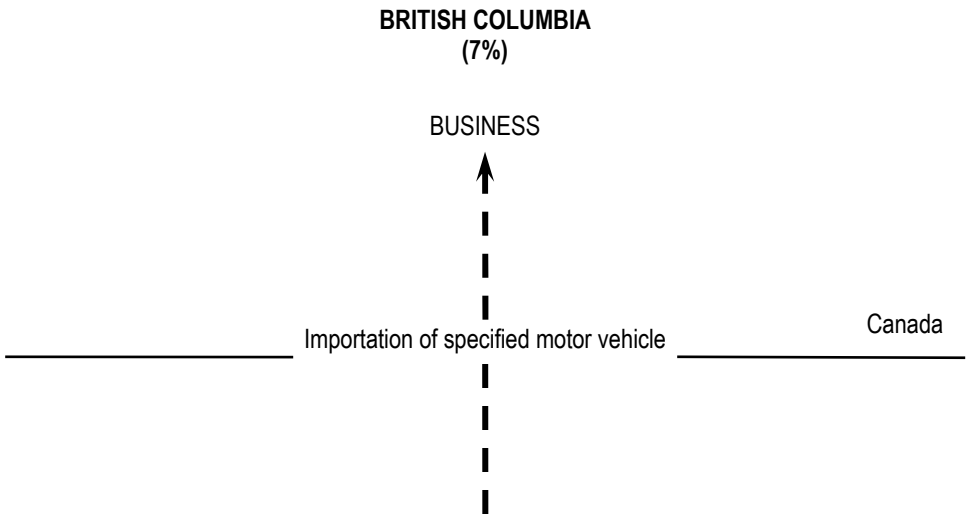
When the tax becomes payable

(Subsection 220.07(4))

The time at which the provincial part of the HST becomes payable in respect of tangible personal property in this case depends on the type of property brought into the province. The tax in respect of a specified motor vehicle that is required to be registered under the motor vehicle registration laws of the participating province becomes payable on the day when the vehicle is registered in that province, or the day the vehicle is required to be registered in that province, whichever is earlier. In either case, the tax is not required to be reported on a GST/HST return, but rather is collected by the provincial licensing authority on behalf of the Receiver General when the vehicle is registered. In any other case, the tax becomes payable on the day the property is brought into the participating province. The requirements for reporting and paying the applicable tax are explained in Section 4, Returns and Payments of Tax, of this publication.

Example 44

A business located in British Columbia purchases a specified motor vehicle, supplied to the business outside Canada, and imports the vehicle on September 10, 2010, from outside Canada into the province. Because the vehicle is a specified motor vehicle, the provincial part of the HST does not apply at importation, in accordance with subsection 212.1(3); as a result, only GST is payable at a rate of 5% in respect of the importation of the vehicle.

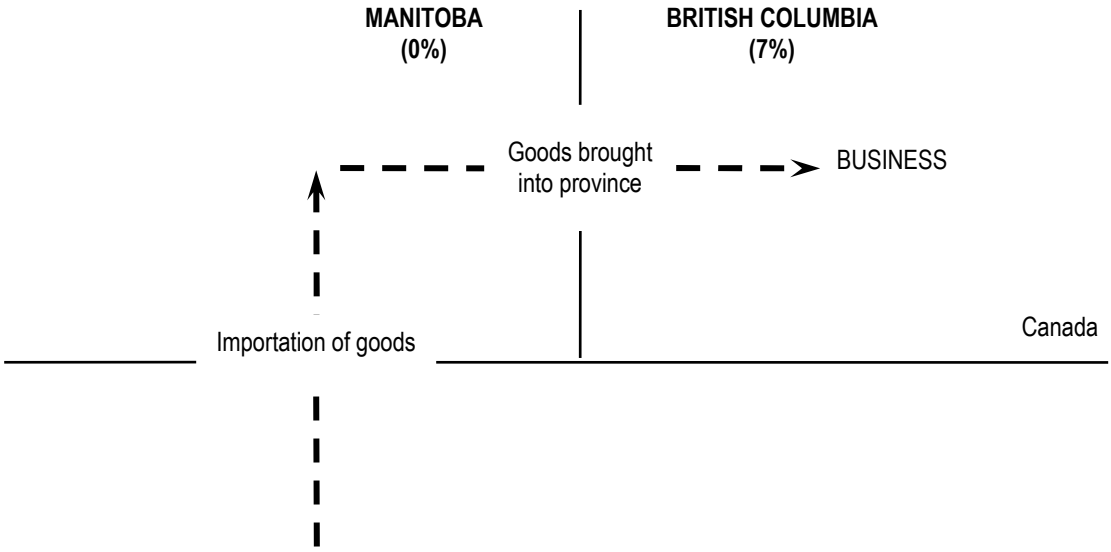


Under the laws of British Columbia, the vehicle needs to be registered within a specified number of days of the vehicle being brought into the province. The business registers the vehicle with the provincial licensing authority before it is required to be registered, and at that time, it is required to pay the tax to the licensing authority at the provincial rate for British Columbia, in accordance with subsection 220.07(4).

Example 45

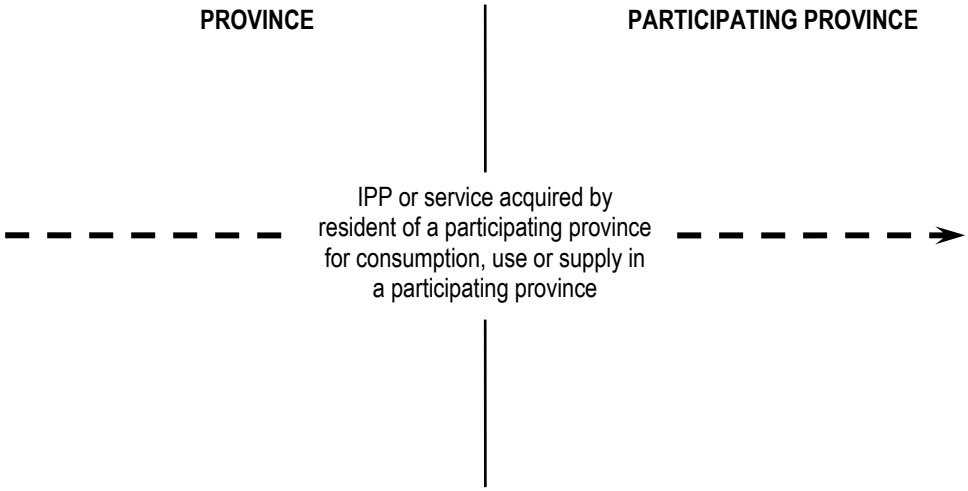
A business operating in British Columbia imports goods that are supplied to the business outside Canada. Although the goods are accounted for as commercial goods under the *Customs Act* when they are imported, they are not for consumption, use or supply exclusively in the course of the business's commercial activities. Because the goods are accounted for as commercial goods, they are not subject to the provincial part of the HST applicable in British Columbia at importation, pursuant to subsection 212.1(3). As a result, only GST is payable at a rate of 5% in respect of the goods when they are imported.

The goods enter Canada in Manitoba on November 1, 2010, and are shipped through Canada before they enter British Columbia on November 3, 2010, and arrive at their destination. The business is required to self-assess, in respect of the goods, the provincial part of the HST applicable in British Columbia on November 3, 2010, the day the goods are brought into the province.



3. Tax on intangible personal property and services brought into a participating province

(Subdivision b of Division IV.1)



Overview

The self-assessment rules that apply with respect to intangible personal property and services that are acquired in a province by a recipient that is resident in a participating province for consumption, use or supply, in whole or in part, in a participating province are set out in section 220.08 under Subdivision b of Division IV.1, Schedule X and Division 3 of Part 5 of the Regulations. As explained below, there are several exceptions to the requirement to self-assess the provincial part of the HST in respect of intangible personal property or services to be consumed, used or supplied in a participating province. A significant exception to the obligation to self-assess the provincial part generally applies where the property or service is for consumption, use or supply exclusively (i.e., 90% or more for registrants other than financial institutions and 100% for financial institutions) in the course of commercial activities of the registrant. Another significant exception generally applies where the provincial part has already been payable in respect of the property or service at a provincial rate that is equal to or higher than the provincial rate for that participating province where the consumption, use or supply will occur, for example, as a result of the supply of the property or service having been made in another participating province based on the application of the place of supply rules. In addition, there is an exception under section 220.04 that generally applies when a person is a selected listed financial institution. See the heading "Selected Listed Financial Institution" in Appendix B for additional information.

The application of the rules with respect to intangible personal property and services is explained in this section and in Section 4, Returns and Payments of Tax.

Appendix K contains definitions and concepts that are relevant for purposes of Subdivision b of Division IV.1 (section 220.08(1)).

Tax on intangible personal property and services acquired for consumption, use or supply in a participating province

(Subsection 220.08(1) and section 13 of the Regulations)

Unless a specific exception applies, a person who is a resident in a participating province, and who is the recipient of a taxable supply made in a province of intangible personal property or a service that is acquired by the person for consumption, use or supply, in whole or in part, in any participating province other than the

province in which the supply is made, is required to pay the provincial part of the HST in relation to each amount of consideration for the supply that becomes due or is paid without becoming due.

The amount to be paid in this case is equal to the total of all amounts determined in a prescribed manner under the Regulations by multiplying:

- the value of the consideration for the supply that becomes due or is paid without becoming due by
- the percentage that is equal to the difference between the provincial rate for the province in which the intangible personal property or service is to be consumed, used or supplied and of the provincial rate for the particular province in which the supply is made (if the particular province is a non-participating province or the property or service is a specified item in respect of the particular province, the provincial rate is equal to 0%) by
- the percentage that is equal to the extent to which the property or service is acquired for consumption, use or supply in the participating province.

Self-assessment of the tax payable is required in respect of each participating province in which the intangible personal property or service that is acquired is to be consumed, used or supplied. Thus, a recipient of a supply of intangible personal property or a service, which is supplied in a province for consumption, use or supply in two or more other provinces that are participating provinces, must first determine the amount of tax payable in respect of each participating province in which consumption, use or supply of the property or service is expected to occur, before determining the total amount of tax that is payable in relation to each amount of consideration in respect of the supply that becomes due or is paid without being due.

The actual formula for determining the amount of tax payable under subsection 220.08(1) by a recipient of a taxable supply made in a particular province is equal to

$$A \times B \times C$$

where

A is the percentage determined by the formula D - E

where

D is the tax rate for the participating province; and

E is

(a) if the property or service is a specified item in respect of the particular province, 0%; and

(b) in any other case, the provincial rate for the particular province;

B is the value of the consideration that is paid or becomes due at that time; and

C is the extent (expressed as a percentage) to which the recipient acquired the property or service for consumption, use or supply in the participating province.

Application and use in offshore areas
(Subsections 220.08(4) and (5))

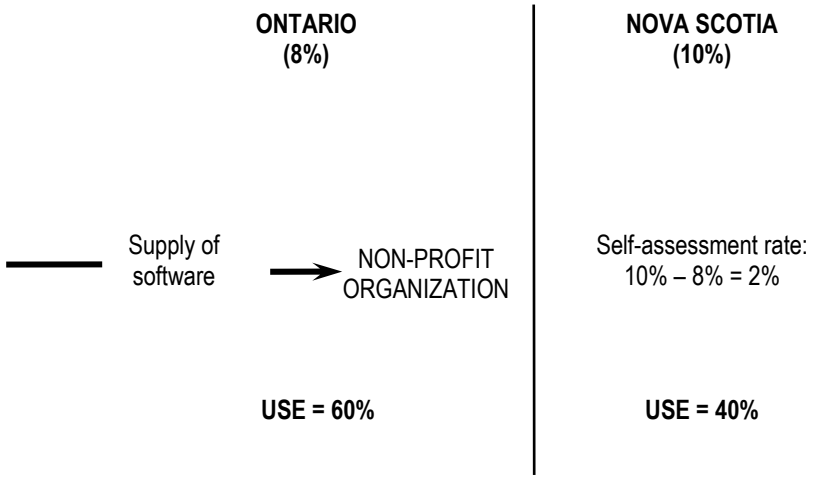
Subsection 220.08(1) does not apply to a supply of intangible personal property or a service made to a person who is resident in the Nova Scotia or Newfoundland offshore area unless the property or service is acquired for consumption, use or supply in the course of an offshore activity or the person is also resident in a participating province that is not an offshore area.

For the purposes of subsection 220.08(1), a person that acquires property or a service for consumption, use or supply in the Nova Scotia offshore area or the Newfoundland offshore area is deemed to acquire the property or service for consumption, use or supply in that area only to the extent that it is acquired for consumption, use or supply in that area in the course of an offshore activity.

Example 46

For a single fee of $10,000, a supplier in Ontario supplies software by way of licence to a non-profit organization that is resident in Ontario for use exclusively in its exempt activities by its employees located at its head office in Ontario and at one of its offices in Nova Scotia. The software is supplied electronically over the Internet and there are no restrictions with respect to where the software may be used. The business address of the non-profit organization in Canada that is obtained by the supplier in the ordinary course of its business that is most closely connected with the supply is in Ontario. The supply of the software is therefore made in Ontario and the supplier collects HST at a rate of 13% in respect of the supply. The extent to which the software is acquired by the non-profit organization for use in Ontario is 60% and the extent to which the software is acquired by the non-profit organization for use in Nova Scotia is 40%.

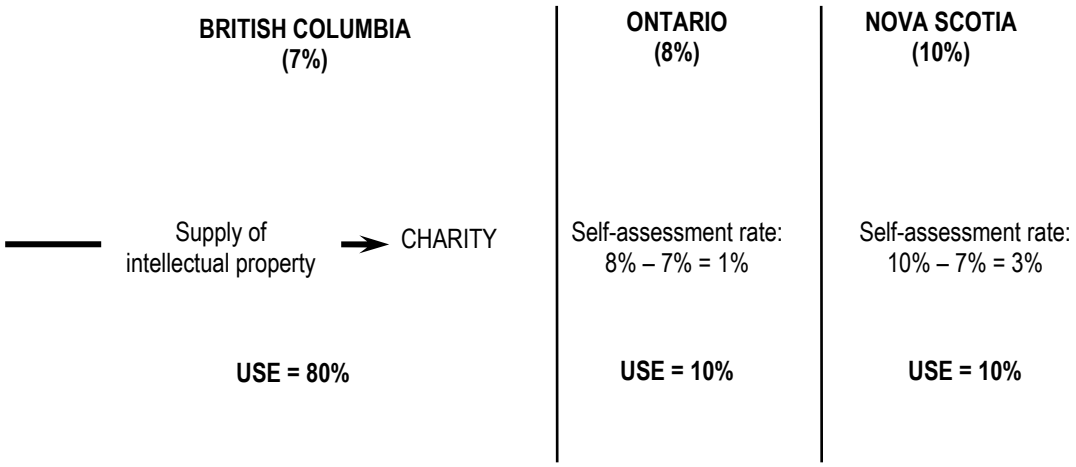
As a resident of a participating province that is a recipient of a taxable supply of intangible personal property made in a province, the non-profit organization is required to self-assess tax under Division IV.1 in respect of the property based on the extent to which the property is acquired for use in any participating province (Nova Scotia) for which the provincial rate is higher than the provincial rate of the province in which the supply was made (Ontario). The amount of tax payable by the non-profit organization is equal to $80 (2% (10% Nova Scotia provincial rate – 8% Ontario provincial rate) × $10,000 (the value of the consideration for the supply) × 40% (the extent to which the non-profit organization acquired the property for use in Nova Scotia)).



Example 47

A supplier in Alberta sells intellectual property to a charity that is resident in British Columbia for $20,000. There are no restrictions on where in Canada the property may be used. The property is acquired by the charity for use of 80% in British Columbia, 10% in Ontario and 10% in Nova Scotia. The business address of the charity in Canada that is obtained by the supplier in the ordinary course of its business that is most closely connected with the supply is in British Columbia. The supply of the intellectual property is therefore made in British Columbia and the supplier collects HST at a rate of 12% in respect of the supply.

As a resident of a participating province that is a recipient of a taxable supply of intangible personal property made in a province, the charity is required to self-assess tax under Division IV.1 in respect of the property based on the extent to which the property is acquired for use in any participating province (Ontario and Nova Scotia) for which the provincial rate is higher than the provincial rate of the province in which the supply was made (British Columbia). The total tax payable by the charity in respect of the property is equal to $80. The amount of tax payable by the charity in respect of the property for Ontario is equal to $20 (1% (8% Ontario provincial rate – 7% British Columbia provincial rate) × $20,000 (the value of the consideration for the supply) × 10% (the extent to which the charity acquired the property for use in Ontario)). The amount of tax payable by the charity in respect of the property for Nova Scotia is equal to $60 (3% (10% Nova Scotia provincial rate – 7% British Columbia provincial rate) × $20,000 (the value of the consideration for the supply) × 10% (the extent to which the charity acquired the property for use in Nova Scotia)).



When the tax becomes payable

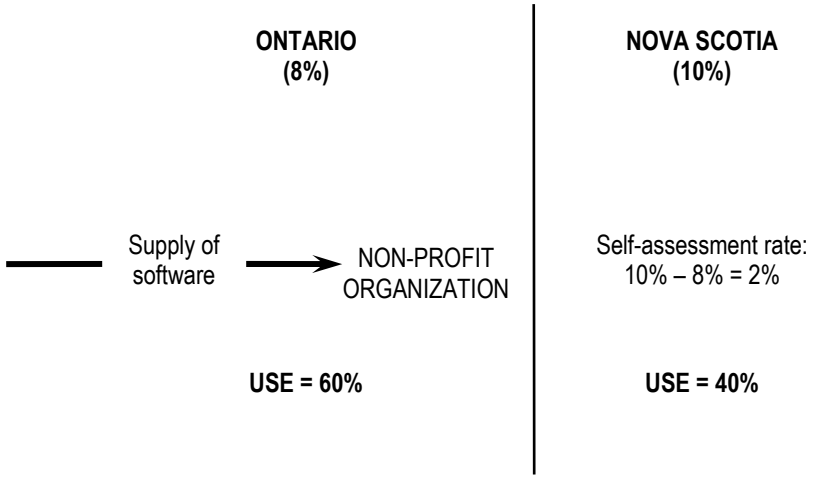
(Subsection 220.08(2))

The provincial part of the HST in respect of the intangible personal property or service becomes payable at any time an amount of consideration for the supply becomes due or is paid without becoming due. The manner in which to self-assess the tax is explained in Section 4, Returns and Payments of Tax, of this publication.

Example 48

The facts of this example are the same as those in Example 46, where a non-profit organization that is resident in Ontario acquires software for use by its employees located at its head office in Ontario and at one of its offices in Nova Scotia. The consideration for the supply of the software becomes due on February 15, 2011, but is paid on February 10, 2011.

The total tax of $80 that is payable by the non-profit organization in respect of the property becomes payable on February 10, 2011, which is the earlier of the day on which the consideration becomes due (February 15, 2011) and the day on which the consideration is paid without having become due (February 10, 2011).



Non-taxable supplies

(Subsection 220.08(3) and sections 14, 15, 24 and 25 of the Regulations)

Self-assessment of the provincial part of the HST in respect of a supply of intangible personal property or a service is not required:

- if the property or service is included in Part II of Schedule X and is not a prescribed supply (paragraph 220.08(3)(a)); or
- in prescribed circumstances (paragraph 220.08(3)(b)).

Appendix L includes a flowchart that summarizes the rules under subsection 220.08(3) governing the exceptions to the self-assessment of the provincial part of the HST in respect of intangible personal property and services acquired for consumption, use or supply in a participating province.

Property under Part II of Schedule X that are not prescribed supplies (paragraph 220.08(3)(a) and sections 14, 24 and 25 of the Regulations

Part II of Schedule X lists supplies, made in a non-participating province, of intangible personal property and services that are conditionally relieved from the requirement to self-assess the provincial part of the HST when they are supplied to a person who is a resident of a participating province and who acquires the property or services for consumption, use or supply in a participating province. Subject to certain exceptions explained below, self-assessment is not required by a person pursuant to Part II of Schedule X in respect of:

- under section 1, a supply of intangible personal property or a service to a registrant who is acquiring the property or service for consumption, use or supply exclusively (i.e., 90% or more for registrants other than financial institutions and 100% for financial institutions) in the course of commercial activities of the registrant, provided the registrant is not using the Quick Method of Accounting, the Special Quick Method of Accounting for Public Service Bodies, or the net tax calculation for charities;
- under section 2, a zero-rated supply under Schedule VI (zero-rated supplies);
- under section 3, a supply of a service (other than a custodial or nominee service in respect of securities or precious metals of the person) in respect of tangible personal property that is removed from the participating provinces as soon after the service is performed as is reasonable under the circumstances surrounding the removal and the property is not consumed, used or supplied in the participating provinces after the service is performed and before the property is removed;
- under section 4, a supply of a service rendered in connection with criminal, civil or administrative litigation outside the participating provinces, other than a service rendered before the commencement of such litigation.(This section has effectively been replaced by section 25 of the Regulations as explained below);
- under section 5, a supply of a transportation service;
- under section 6, a supply of a telecommunication service; or
- under section 7, a prescribed supply of property or a service where the property or service is acquired by the recipient of the supply in prescribed circumstances, subject to such terms and conditions as may be prescribed.

However, a supply of intangible personal property or a service described under Part II of Schedule X will not qualify as a non-taxable supply under paragraph 220.08(3)(a) if the supply is also a prescribed supply under section 14 of the Regulations. Section 14 of the Regulations provides that a prescribed supply is a supply that is included in section 4 of Part II of Schedule X to the Act described above, except if the supply is included in another section of that Part.

Sections 24 and 25 of the Regulations prescribe two supplies of services for purposes of section 7 of Part II of Schedule X described above, the result of which the requirement to self-assess the provincial part of the HST in respect of those services is relieved.

Under section 24 of the Regulations, a recipient of a supply of a service acquired in respect of tangible personal property in any circumstances, other than a custodial or nominee service supplied in respect of securities or precious metals of the recipient, is relieved from the obligation to self-assess tax if the property is:

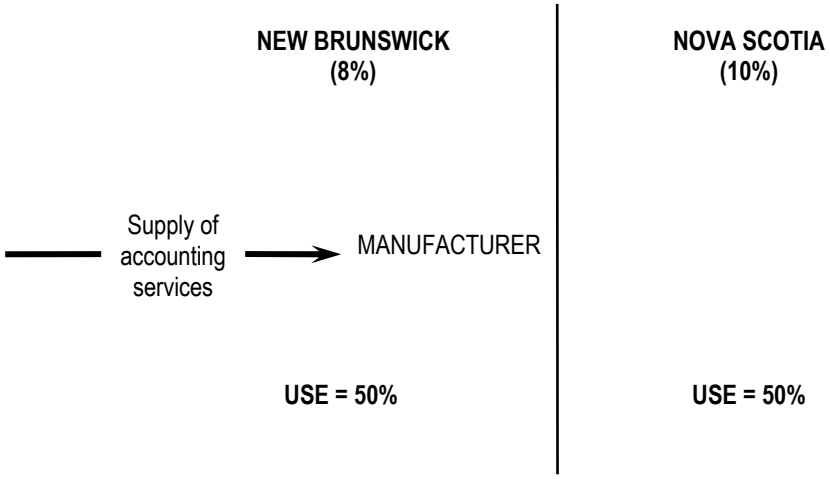
- removed from a particular participating province to another participating province as soon after the service is performed as is reasonable under the circumstances surrounding the removal; and
- not consumed, used or supplied in the particular participating province after the service is performed and before the property is removed.

Section 25 of the Regulations, which has effectively replaced section 4 of Part II of Schedule X, relieves a recipient from self-assessing the provincial part of the HST in respect of a supply of a service that is acquired in any circumstances and rendered in connection with criminal, civil or administrative litigation, other than a service rendered before the commencement of such litigation, that is under the jurisdiction of a court or other tribunal established under the laws of a province, or that is in the nature of an appeal from a decision of such a court or tribunal.

Self-assessment of the provincial part in respect of intangible personal property and services is also not required in prescribed circumstances under paragraph 220.08(3)(b), as explained below.

Example 49

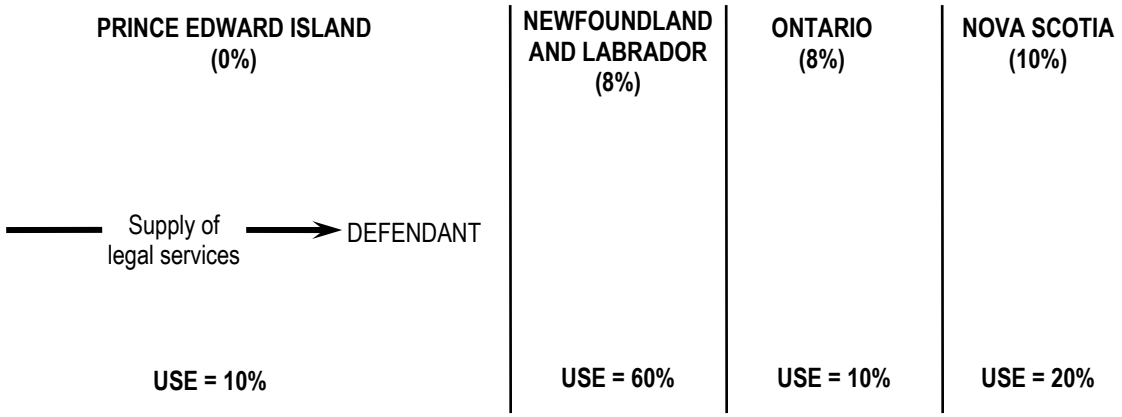
A manufacturer that is resident in New Brunswick and engaged exclusively in commercial activities hires an accounting firm in New Brunswick to supply it with accounting services that equally relate to its operations in New Brunswick and Nova Scotia. The business address of the manufacturer in Canada that is obtained by the supplier in the ordinary course of its business that is most closely connected with the supply is in New Brunswick. The supply of the accounting services is therefore made in New Brunswick and the supplier collects HST at a rate of 13% in respect of the supply of the services.



The manufacturer is a resident of New Brunswick, a participating province, and has acquired the accounting services partly for use in a participating province (Nova Scotia) for which the provincial rate is higher than the provincial rate of the province in which the supply was made (New Brunswick). However, the manufacturer is relieved under paragraph 220.08(3)(a) and section 1 of Part II of Schedule X of the obligation to self-assess tax in respect of the services because they were acquired by the manufacturer for use exclusively in its commercial activities.

Example 50

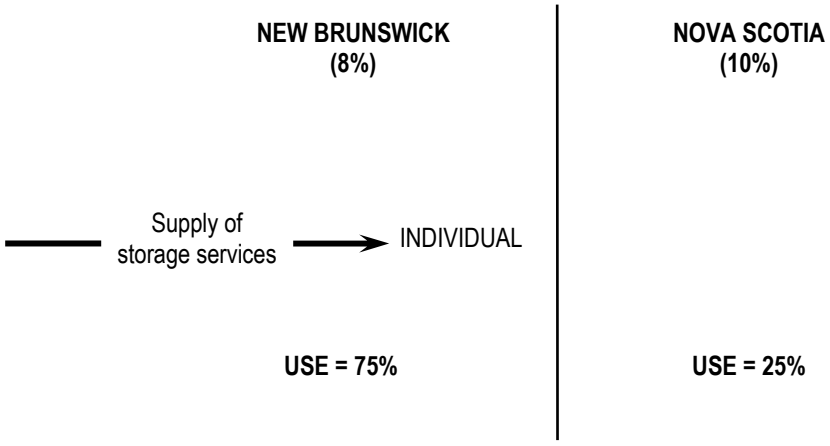
A business located in Newfoundland and Labrador is a defendant in a lawsuit that originated before a provincial court in Prince Edward Island (PEI). The first court's decision was appealed to PEI's Court of Appeal, and subsequently appealed to the Supreme Court of Canada. Throughout the process, the business retains the same law firm, located in Nova Scotia. In respect of the appeal to the Supreme Court, approximately 10% of the legal services are used in PEI, 60% are used in Newfoundland and Labrador, 20% are used in Nova Scotia, and 10% are used in Ontario. The business is not engaged exclusively in commercial activities. Under the place of supply rules for services rendered in connection with litigation, the supply of the legal services is made in PEI and subject to GST at a rate of 5%.



The legal services are not a prescribed supply described by section 14 of the Regulations because they are described elsewhere in Part II of Schedule X (specifically, section 25 of the Regulations made under Part II of Schedule X). The business is therefore relieved pursuant to paragraph 220.08(3)(a) of the obligation to self-assess the provincial part of the HST in respect of the supply.

Example 51

An individual who lives in Newfoundland and Labrador retains a company to store, for one year, tangible personal property owned by the individual for personal use. When the storage service begins, most of the property is stored in New Brunswick, but approximately 25% is stored in Nova Scotia, and when the service ends, the property is immediately shipped to the individual in Newfoundland and Labrador without being consumed, used or supplied in New Brunswick or Nova Scotia. Under the place of supply rules for services in relation to tangible personal property, the supply is made in New Brunswick and subject to HST at the rate of 13%.

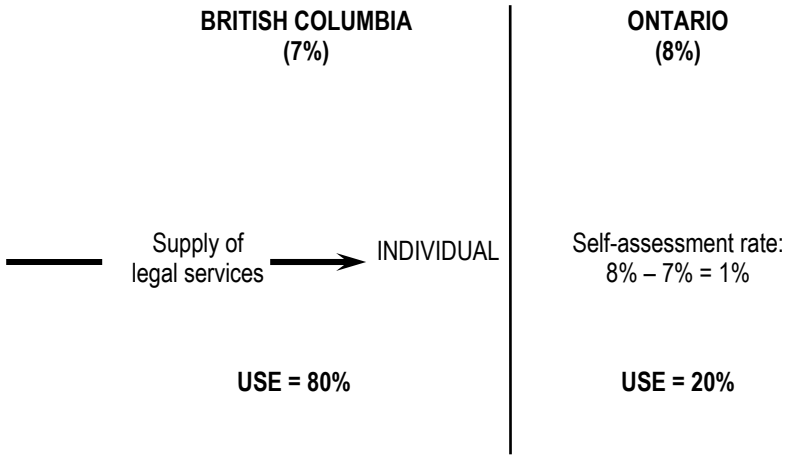


The individual, as a resident of a participating province, is required to self-assess tax in respect of the service to the extent that it is used in Nova Scotia. However, the supply of the service in respect of the tangible personal property is a non-taxable supply pursuant to paragraph 220.08(3)(a), because the conditions described under section 24 of the Regulations have been met. In particular, the property is removed from a particular participating province to another participating province as soon after the service is performed as is reasonable under the circumstances surrounding the removal, and is not consumed, used or supplied in the particular participating province after the service is performed and before the property is removed. As a result, the individual is relieved under paragraph 220.08(3)(a) from having to self-assess tax in respect of the service.

Example 52

An individual who lives in British Columbia is appealing a decision, originally from the Tax Court of Canada, to the Supreme Court of Canada. The individual retains a law firm, located in British Columbia, to represent him. Approximately 80% of the legal services are used in British Columbia and 20% are used in Ontario. Under the place of supply rules for general services, the legal services are supplied in British Columbia and subject to HST at the rate of 12%.

The individual, as a resident of a participating province, is required to self-assess tax in respect of the services to the extent they are acquired for use in Ontario. Although the services are in respect of litigation, the litigation commenced before the Tax Court of Canada, which is a court established under federal statute. It is therefore not a supply of litigation-related services described under section 25 of the Regulations, because the litigation is not under the jurisdiction of a court or other tribunal established under provincial law, and is not an appeal from a decision of a court or other tribunal established under provincial law. As a result, the individual is not relieved by paragraph 220.08(3)(a) from having to self-assess tax in respect of the legal services, and must therefore self-assess tax to the extent that the services are acquired for use in Ontario.



Prescribed circumstances (paragraph 220.08(3)(b) and section 15 of the Regulations

The requirement to self-assess the provincial part of the HST is also relieved in prescribed circumstances.

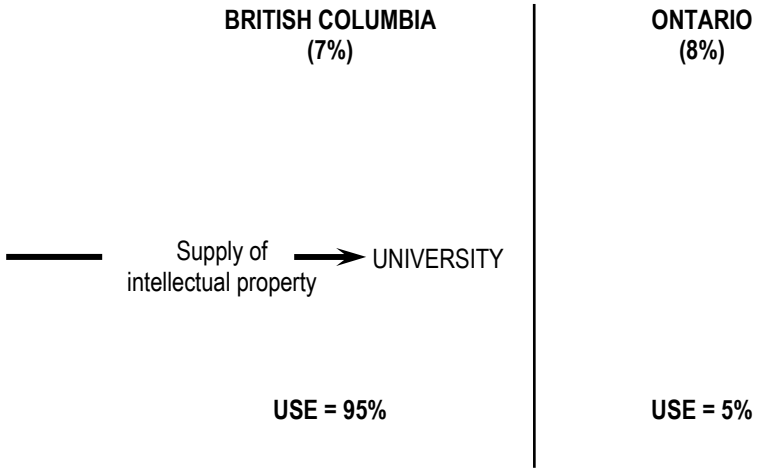
Pursuant to section 15 of the Regulations, self-assessment of tax in respect of an amount of consideration for a supply of intangible personal property or a service that is made in a particular province is not required if the total extent to which the property or service is acquired for consumption, use or supply is less than 10% in participating provinces that have, at the time the consideration for the supply becomes due, or is paid without being due, a higher provincial rate than the particular province. In other words, self-assessment may only be required if the total extent to which the intangible personal property or service is acquired for consumption, use or supply in participating provinces with a higher tax rate than the province in which the supply is made is a significant amount (at least 10%).

In addition, pursuant to section 15 of the Regulations, self-assessment is not required if the total of all amounts of tax that would become payable by the person under Division IV.1 in a calendar month would be $25 or less without the application of this $25 threshold and the previously explained $25 thresholds in respect of sections 220.05 and 220.06. The calculation of this threshold does not include any amount that would be deducted under subsection 220.09(3) from the tax payable under Division IV.1 because it is a prescribed amount for purposes of subsection 234(3) in respect of a point-of-sale rebate in respect of property or a service that is a specified item in the participating province in which the intangible personal property or service is for consumption, use or supply.

Example 53

A supplier in British Columbia makes a supply of intellectual property for $5,000 to a university that is resident in British Columbia for use 95% in British Columbia and 5% in Ontario. There are no restrictions on where in Canada the property may be used. The business address of the university in Canada that is obtained by the supplier in the ordinary course of its business that is most closely connected with the supply is in British Columbia. The supply of the intellectual property is therefore made in British Columbia and the supplier collects HST at a rate of 12% in respect of the supply.

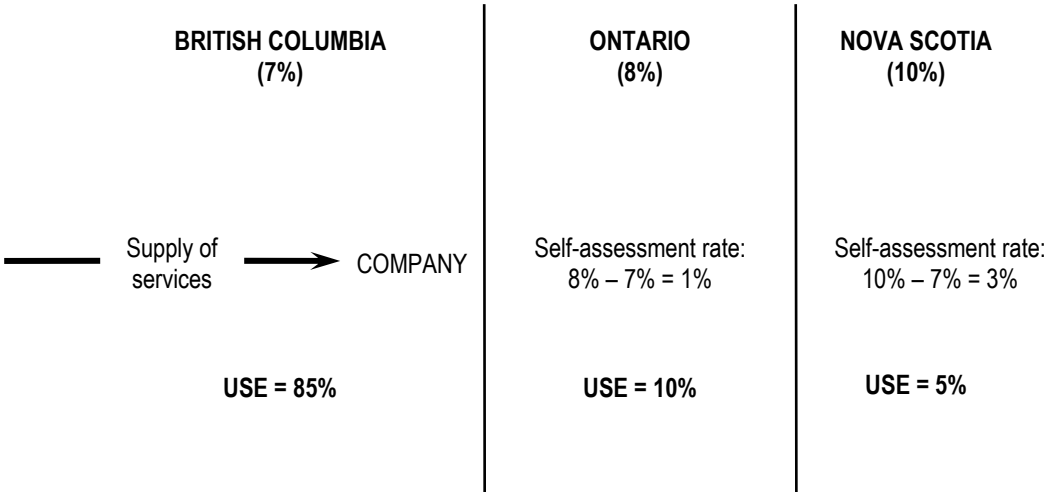
The university is a resident of a participating province, and has acquired the intellectual property partly for use in a participating province (Ontario) for which the provincial rate is higher than the provincial rate of the province in which the supply was made (British Columbia). However, the university is relieved, under paragraph 220.08(3)(b) and paragraph 15(a) of the Regulations, of the obligation to self-assess tax in respect of the property because the extent to which the university acquired the property for use in Ontario is less than 10%.



Example 54

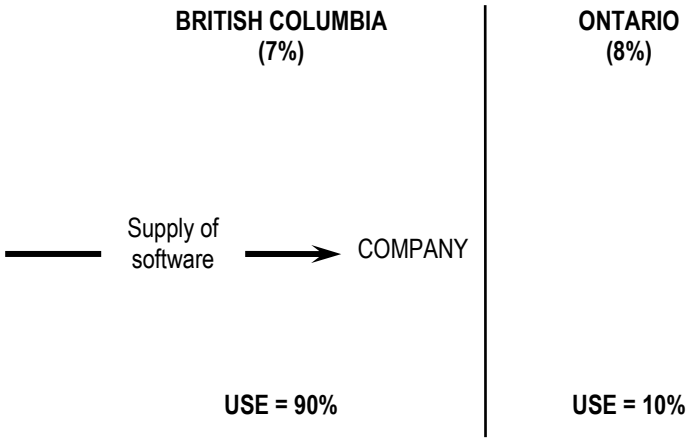
A consulting firm supplies services to a national company located in British Columbia for consideration of $30,000. While 85% of the services are for the company's use in British Columbia, 10% of the services are for use in Ontario, and 5% of the services are for use in Nova Scotia. The company is not engaged exclusively in commercial activities. The business address in Canada of the company that is obtained by the firm in the ordinary course of the firm's business and that is most closely connected with the supply is in British Columbia. Under the general place of supply rules for services, the supply is therefore made in British Columbia and subject to HST at the rate of 12%.

As a resident of a participating province, the company is required to self-assess tax in respect of the supply of services that is for consumption, use or supply in Ontario and Nova Scotia. Because the total extent (15%) to which the services are consumed, used or supplied in participating provinces with a higher rate of the provincial part of the HST than the province where the supply occurred is at least 10%, the conditions described under paragraph 15(a) of the Regulations are not met and the company is not relieved by paragraph 220.08(3)(b) from self-assessing tax. As a result, the company must self-assess tax to reflect the extent to which the service is used in each of the provinces of Ontario and Nova Scotia. The total tax payable by the company in respect of the service is equal to $75. The amount of tax payable by the company in respect of the services for Ontario is equal to $30 (1% (8% Ontario provincial rate – 7% British Columbia provincial rate) × $30,000 (the value of the consideration for the supply) × 10% (the extent to which the company acquired the services for use in Ontario)). The amount of tax payable by the company in respect of the services for Nova Scotia is equal to $45 (3% (10% Nova Scotia provincial rate – 7% British Columbia provincial rate) × $30,000 (the value of the consideration for the supply) × 5% (the extent to which the company acquired the services for use in Nova Scotia)).



Example 55

A company that is resident in British Columbia is a recipient of a supply of software made in British Columbia by an Ontario supplier for $5,000 that the company has acquired for use 90% in British Columbia and 10% in Ontario. The business address of the company in Canada that is obtained by the supplier in the ordinary course of its business that is most closely connected with the supply is in British Columbia. The supply of the intellectual property is therefore made in British Columbia and the supplier collects HST at a rate of 12% in respect of the supply. The company is not engaged exclusively in commercial activities.

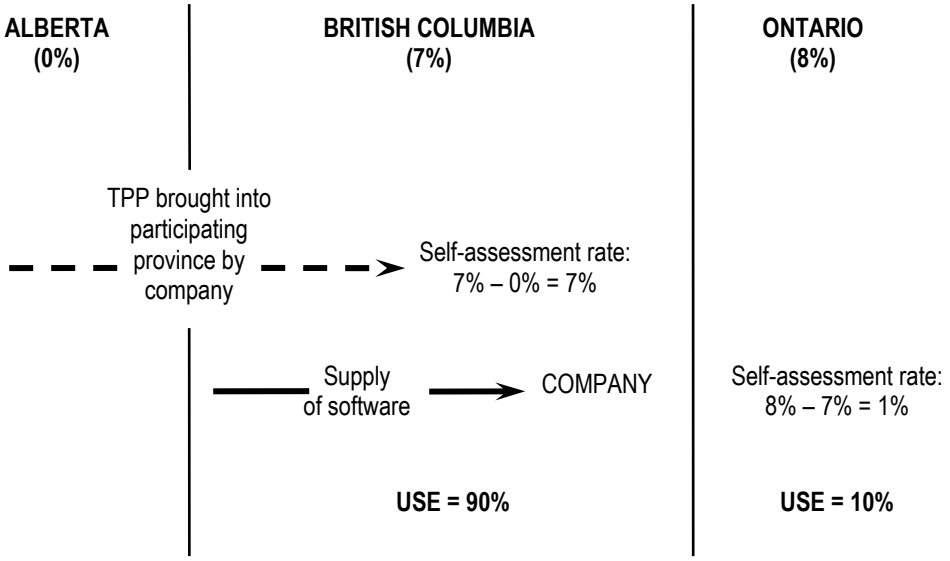


The amount of tax that would be payable by the company in respect of the property for Ontario is equal to $5 (1% (8% Ontario provincial rate – 7% British Columbia provincial rate) × $5,000 (the value of the consideration for the supply) × 10% (the extent to which the company acquired the property for use in Ontario)). No other tax under Division IV.1 is payable by the company in the calendar month in which the self-assessed tax under subsection 220.08(1) is payable. Because the total self-assessed tax owing by the company in the month does not exceed the $25 threshold prescribed in paragraph 15(b) of the Regulations, the company is relieved by paragraph 220.08(3)(b) from paying self-assessed tax in respect of the property.

Example 56

The facts in this example are the same as in Example 55 in which the company, resident in British Columbia, determines that it would owe $5 under subsection 220.08(1). During the same period, the business purchases tangible personal property that is supplied in Alberta and brings the property into British Columbia. Upon self-assessing the tax in respect of the tangible personal property, the business owes $42 under subsection 220.05(1). The business is not engaged exclusively in commercial activities.

When the business files its return for the reporting period, it determines that it owes $47 in respect of self-assessed tax under Division IV.1. Because this total exceeds the $25 threshold prescribed in the Regulations, the business is not relieved from self-assessing the tax.



4. Returns and payment of tax

(Subsections 220.09(1), (2) and (4))

The time at which a person is required under subsection 220.09(1) to report and pay tax that becomes payable by the person under Division IV.1 generally depends on whether the person is a GST/HST registrant. If the person is a registrant, the person must pay the tax by the due date of the registrant's regular GST/HST return for the reporting period in which the tax became payable and must report the tax in that return by its due date.

In any other case, by the last day of the month following the calendar month in which the tax became payable, the person must pay the tax to the Receiver General and file a return in respect of the tax in prescribed form containing prescribed information. The prescribed return in this case is Form GST489, *Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)*.

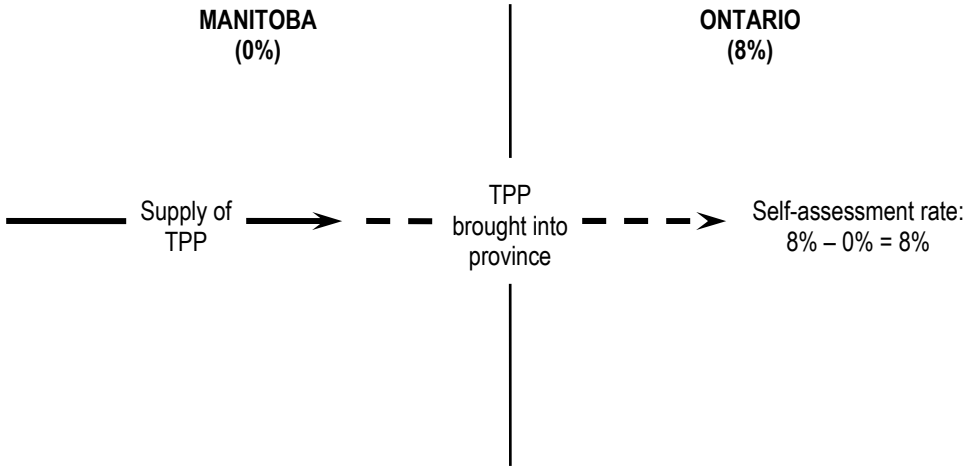
There are two exceptions to these rules. First, under subsection 220.09(2), if the tax is payable by a person under Division IV.1 in respect of a specified motor vehicle that the person is required to register under the motor vehicle registration laws of a participating province, the person must pay the tax to the provincial licensing authority in its capacity as agent of Her Majesty in right of Canada on the earlier of the day on which the vehicle is registered by the person and the day by which the vehicle is required to be registered by the person. The person in this case is not required to report the tax in a return nor file a return in respect of the tax. Under the second exception in subsection 220.09(4), if the amount of tax that a person is required to pay under subsection 220.09(1) is nil, the person is not required to file a return under Division IV.1.

Example 57

A business located in Ontario and registered for GST/HST purposes purchases tangible personal property in May 2011 from a supplier in Manitoba and brings it into Ontario in June 2011. Based on the terms of delivery in the sales agreement, the supply of the property occurs in Manitoba and thus only GST at a rate of 5% is imposed. The reporting periods of the business are calendar quarters (i.e., the first quarter covers January to March, the second quarter covers April to June, etc.). The business is not engaged exclusively in commercial activities.

The business brings the tangible personal property into Ontario and self-assesses the provincial part of the HST payable in respect of the property. Because the business's reporting periods are calendar quarters, the last day of the reporting period during which the property was

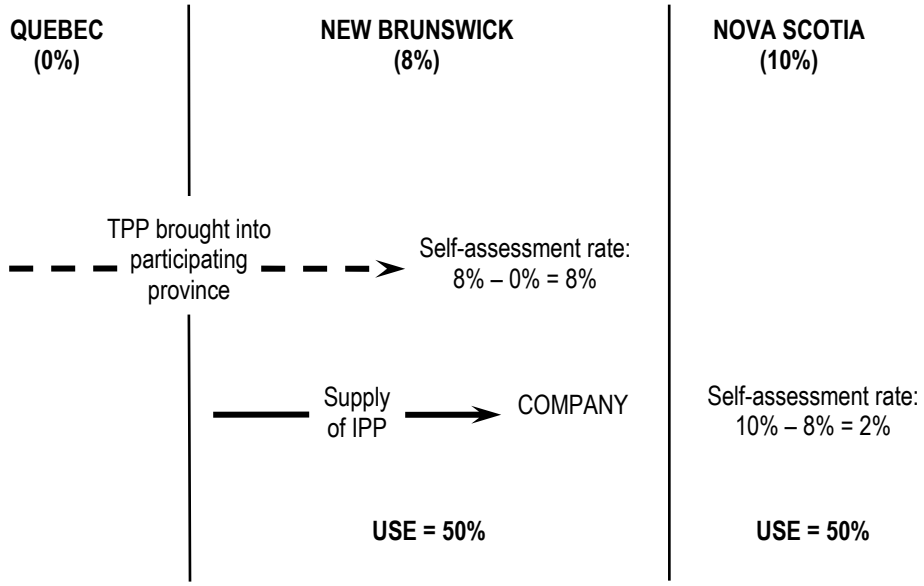
brought into Ontario is June 30, 2011. The business must therefore report the self-assessed tax in its GST/HST return for that period, which must be filed by July 31, 2011, and pay the self-assessed tax on or before that date.



Example 58

In November 2010, a business located in New Brunswick and registered for GST/HST purposes purchases tangible personal property from a supplier in Quebec, and based on the delivery terms in the contract the place of supply of the property is Quebec and therefore only GST at a rate of 5% is imposed in respect of the supply; the business brings the property into New Brunswick immediately after the sale. In addition, the business has an annual subscription to an electronic database for use equally by its employees, who work at the business's offices in New Brunswick and Nova Scotia; under the terms of the contract with the database supplier, the business makes regular payments on the first business day of each month (in this case, November 1, 2010). Pursuant to the general place of supply rules for intangible personal property, the subscription is supplied in New Brunswick. The reporting periods of the business are calendar months. The business is not engaged exclusively in a commercial activity.

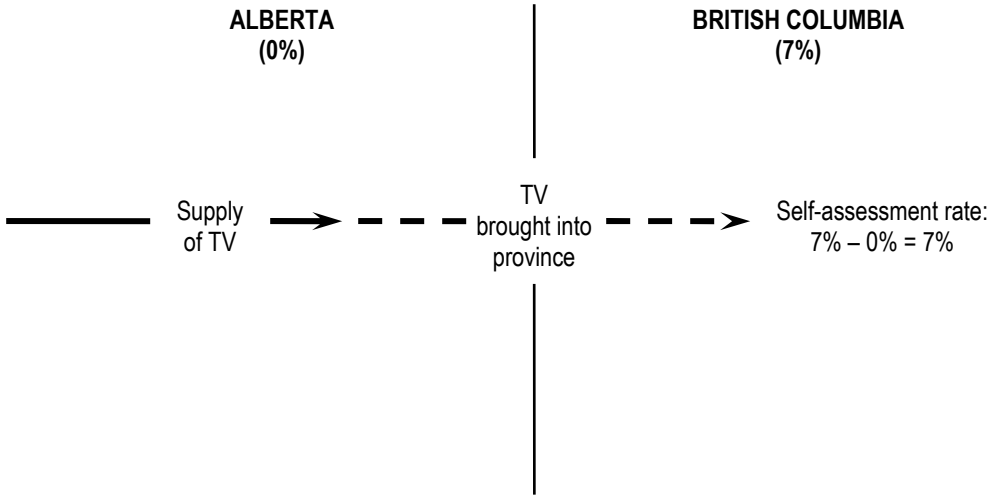
Self-assessed tax is payable in respect of the tangible personal property brought into New Brunswick and the intangible personal property used in Nova Scotia. Because the business has a monthly reporting period, the last day of the reporting period during which the tangible personal property was brought into New Brunswick is on November 30, 2010. In that period, the business also paid an amount for the database subscription. The business must therefore report, in its GST/HST return for that period, the self-assessed tax in respect of both the tangible and intangible personal property. The GST/HST return for that period must be filed by December 31, 2010, and the self-assessed tax must be paid on or before that date.



Example 59

An individual who lives in British Columbia purchases a television from a retailer in Alberta, which the individual picks up at the retailer's premises. As a result, only GST at a rate of 5% is collected in respect of the television. The individual is not a GST/HST registrant.

The individual brings the television into British Columbia on September 15, 2010. The individual is not a GST/HST registrant, and thus the tax is required to be paid and a return required to be filed on or before the day that is the last day of the month following the calendar month in which the tax became payable. Because the provincial part of the HST became payable on September 15, 2010, the individual must pay the self-assessed tax, and file form GST489, on or before October 31, 2010.



Deductions for prescribed amount
(Subsection 220.09(3))

If tax under Division IV.1 becomes payable by a person and all or any portion of that tax is an amount that is prescribed for purposes of subsection 234(3), that amount is to be deducted from the tax payable in determining the amount that is required to be paid under subsection 220.09(1).

Amounts that are prescribed for purposes of subsection 234(3) relate to point-of-sale rebates that are provided by the government of a participating province in respect of specified items supplied in the province. Because each participating province determines which goods and services are subject to a point-of-sale rebate, the types of goods and services that are specified items may vary across the participating provinces. Pursuant to subsection 234(3), the *Deduction for Provincial Rebate (GST/HST) Regulations* describe the types of goods and services that are specified items within a particular participating province, and establish that a prescribed amount is equal to the provincial part of the HST that would otherwise be payable in respect of the goods and services if they were supplied within that province and were not specified items.

Deducting the provincial part of the HST applicable in respect of a specified item in a particular participating province when tax is self-assessed under Division IV.1 ensures consistency with the tax treatment that would have been provided if the specified item had been supplied in that participating province. As a result, in this case, a person will only have to self-assess the provincial part of the HST in respect of goods and services brought into a particular participating province where the goods and services would have been subject to the tax if they had been supplied in that participating province.

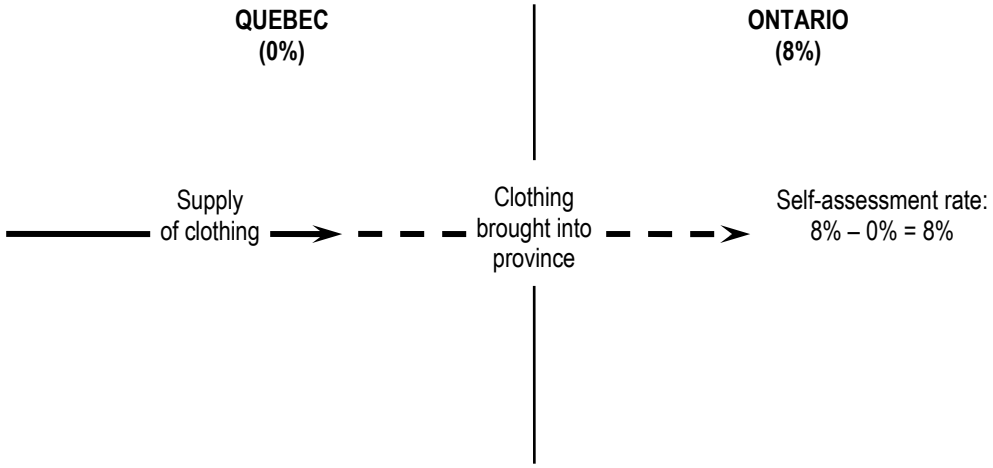
Additional information regarding the point-of-sale rebates and types of goods and services that qualify as specified items can be found in the following CRA documentation:

- GST/HST Info Sheet GI-060, *Harmonized Sales Tax for Ontario – Point-of-Sale Rebate on Newspapers*
- GST/HST Info Sheet GI-061, *Harmonized Sales Tax for British Columbia – Point-of-Sale Rebate on Motor Fuels*
- GST/HST Info Sheet GI-062, *Harmonized Sales Tax for Ontario, British Columbia and Nova Scotia – Point-of-Sale Rebate on Feminine Hygiene Products*
- GST/HST Info Sheet GI-063, *Harmonized Sales Tax for Ontario, British Columbia and Nova Scotia – Point-of-Sale Rebate on Children's Goods*
- GST/HST Info Sheet GI-064, *Harmonized Sales Tax for Ontario – Point-of-Sale Rebate on Prepared Food and Beverages*
- GST/HST Info Sheet GI-065, *Harmonized Sales Tax for Ontario and British Columbia – Point-of-Sale Rebate for Books*
- GST/HST Memorandum 13.4, *Rebates for Printed Books, Audio Recordings of Printed Books and Printed Versions of Religious Scriptures*
- GST/HST Technical Information Bulletin B-094, *Amendments to the Point-of-Sale Rebate for Printed Books*
- GST/HST Info Sheet GI-072, *HST and First Nations in Ontario and British Columbia*
- GST/HST Technical Information Bulletin B-039, *GST/HST Administrative Policy – Application of the GST/HST to Indians*

Example 60

A non-profit organization in Ontario purchases clothing from a wholesaler in Quebec. Based on the contract, the place of supply is in Quebec and only GST at a rate of 5% is collected in respect of the supply. The non-profit organization immediately brings the clothing into Ontario after the purchase. Some of the clothing purchased in Quebec is children's clothing that qualifies as specified items in Ontario. The non-profit organization uses reporting periods that are calendar months.

The non-profit organization realizes that of the self-assessed tax that it is required to pay under Division IV.1, $300 of the tax that is payable relates to children's clothing that qualifies as a specified item in Ontario. As a result, the organization is required to deduct that amount in order to determine the net amount of tax it is required to pay in respect of that reporting period.



Enquiries by telephone

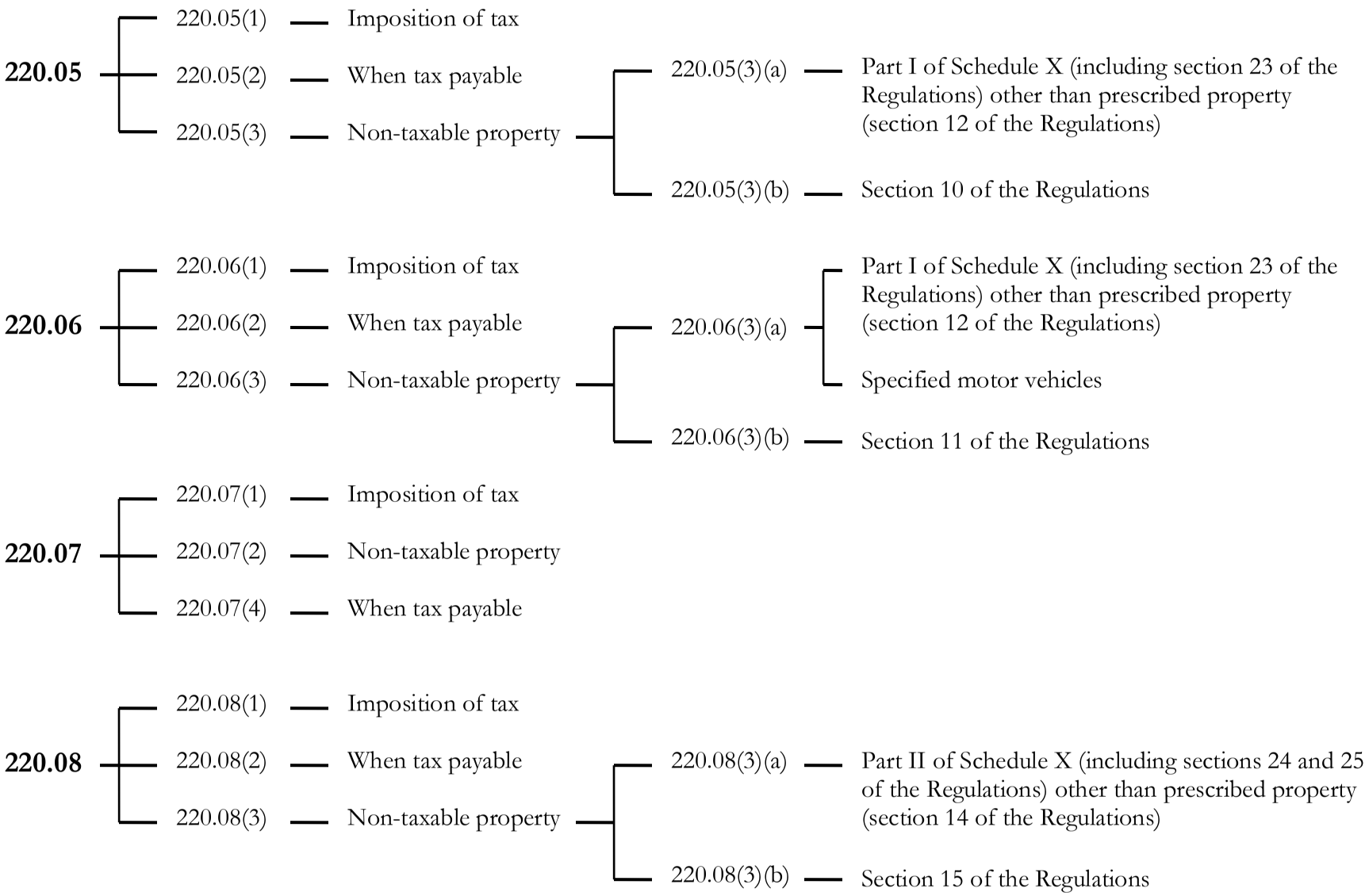
Technical enquiries on the GST/HST: 1-800-959-8287

General enquiries on the GST/HST: 1-800-959-5525 (Business Enquiries)

If you are located in Quebec: 1-800-567-4692 (Revenu Québec)

All technical publications related to the GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthsttech.

Appendix A – Division IV.1 provisions



Appendix B – Definitions and concepts that are relevant for purposes of Division IV.1

Newfoundland and Nova Scotia offshore areas (subsection 123(1))

The self-assessment rules apply to supplies relating to the Newfoundland and Nova Scotia offshore areas only to the extent that they are for consumption, use or supply in the course of an offshore activity.

The offshore areas of Nova Scotia and Newfoundland are defined under subsection 123(1) to be as defined under two statutes that relate to federal-provincial management of petroleum resources in the provinces' offshore areas.

The "Newfoundland offshore area" is defined under subsection 123(1) to mean the offshore area as defined in section 2 of the *Canada-Newfoundland Atlantic Accord Implementation Act*. The Newfoundland offshore area therefore means those submarine areas lying seaward of the low water mark of the Province and extending, at any location, as far as any prescribed line, or where no line is prescribed at that location, the outer edge of the continental margin or a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater.

The "Nova Scotia offshore area" is defined under subsection 123(1) to mean the offshore area as defined in section 2 of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*. The Nova Scotia offshore area therefore means the lands and submarine areas within the limits described in Schedule I of that Act.

Non-participating province (subsection 123(1))

A "non-participating province" means a province that is either not a participating province or another area in Canada that is outside the participating provinces. As a result, the Canadian territories are considered to be non-participating provinces.

Offshore activity (subsection 123(1))

"Offshore activity" is defined under subsection 123(1) to mean activities described under particular provisions of the two federal-provincial petroleum resources management Accords. Essentially, an "offshore activity" is an activity, related to the petroleum industry, in respect of which tax would be imposed under the implementation legislation for those Accords if the references in those agreements to the consumption taxes of Nova Scotia and Newfoundland and Labrador were references to the HST.

Participating province (subsection 123(1))

A "participating province" means a province or area referred to in Schedule VIII, and includes the Nova Scotia and Newfoundland offshore areas to the extent that offshore activities are carried on in either of those areas.

Province (subsection 123(1))

A "province" is defined under subsection 123(1) to include a participating province. As a result, a province encompasses the Nova Scotia and Newfoundland offshore areas since those areas are included in the definition of participating province but are not otherwise considered provinces.

Provincial investment plan (proposed section 4 of the draft Regulations)

A "provincial investment plan" for a particular province means a non-stratified investment plan (an investment plan that is a mutual fund trust, a mutual fund corporation, a unit trust, a mortgage investment corporation, an investment corporation, a non-resident-owned investment corporation or a segregated fund of an insurer, the units of which are not issued in two or more series) described in section 12 of the draft SLFI Regulations, the units of which are permitted, under the laws of Canada or a province, to be sold in the particular province.

Provincial rate (section 6 of the Regulations)

The "provincial rate", for or in relation to a province, means in the case of a participating province, the tax rate for that province; and in the case of a non-participating province, 0%.

The provincial rates for the participating provinces are therefore:

Ontario	8%
Nova Scotia	10%
New Brunswick	8%
British Columbia	7%
Newfoundland and Labrador	8%
Nova Scotia offshore area	10%
Newfoundland offshore area	8%

Public Service Body (subsection 123(1))

A "public service body" means a non-profit organization, a charity, a municipality, a school authority, a hospital authority, a public college or a university.

Recipient (subsection 123(1))

A "recipient" of a supply of property or a service means

- if consideration for the supply is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration;
- if the previous bullet does not apply and consideration is payable for the supply, the person who is liable to pay that consideration; and
- if no consideration is payable for the supply,
  - in the case of a supply of property by way of sale, the person to whom the property is delivered or made available;
  - in the case of a supply of property otherwise than by way of sale, the person to whom possession or use of the property is given or made available; and
  - in the case of a supply of a service, the person to whom the service is rendered.

Resident in a province

The residence status of a person in a province is relevant to a number of provisions of the *Excise Tax Act* (the Act) relating to the HST, including the self-assessment provisions.

Non-Consumers

Section 132.1 outlines special rules for determining whether certain categories of persons are resident in a province and defines the meaning of "permanent establishment" for HST purposes.

Under subsection 132.1(1), a person, other than an individual in the individual's capacity as a consumer, is deemed to be a resident in a province if the person is resident in Canada and

- if the person is a corporation, the corporation is incorporated or continued under the laws of the province and not continued elsewhere;
- if the person is a partnership, unincorporated society, club, association or organization, or branch thereof, the member, or majority of members, with management and control thereof is or are resident in the province;

- if the person is a labour union, it carries on activities as a union in the province and has a local union or branch in the province; or
- in any case, if the person has a permanent establishment in the province.

Subsection 132.1(2) generally defines "permanent establishment" for the purposes of section 132.1. The definition relies on the meanings assigned to "permanent establishment" under certain provisions of the *Income Tax Regulations*. The meaning also relies on the definition of "business" under subsection 248(1) of the *Income Tax Act*, which is defined to mean a profession, calling, trade, manufacture or any undertaking and generally an adventure or concern in the nature of trade, but does not include an office or employment.

In the case of an individual, the estate of a deceased individual or a trust that carries on a business, the meaning of "permanent establishment" is as defined for purposes of Part XXVI of the *Income Tax Regulations*. It therefore includes a fixed place of business of the individual including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop, or a warehouse. Also, if an individual carries on business through an employee or agent, established in a particular place, who has general authority to contract for his employer or principal or who has a stock of merchandise owned by his employer or principal from which he regularly fills orders which he receives, the individual is deemed to have a permanent establishment in that place. If an individual uses substantial machinery or equipment in a particular place at any time in a taxation year, the individual is deemed to have a permanent establishment in that place. For purposes of this definition, the fact that an individual has business dealings through a commission agent, broker or other independent agent or maintains an office solely for the purchase of merchandise, does not on its own mean that the individual has a permanent establishment.

The same definition under Part XXVI of the *Income Tax Regulations* also applies with respect to the permanent establishment of a member of a partnership, where the member is an individual, the estate of a deceased individual or a trust, and the establishment relates to a business carried on through the partnership.

In the case of a corporation that carries on a business, the meaning of "permanent establishment" is as defined under Part IV of the *Income Tax Regulations*. It therefore includes a fixed place of business of the corporation, including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop, or a warehouse. Also,

- where the corporation does not have any fixed place of business it means the principal place in which the corporation's business is conducted;
- where a corporation carries on business through an employee or agent, established in a particular place, who has general authority to contract for his employer or principal or who has a stock of merchandise owned by his employer or principal from which he regularly fills orders which he receives, the corporation is deemed to have a permanent establishment in that place;
- an insurance corporation is deemed to have a permanent establishment in each province and country in which the corporation is registered or licensed to do business;
- where a corporation, otherwise having a permanent establishment in Canada, owns land in a province, such land is deemed to be a permanent establishment;
- where a corporation uses substantial machinery or equipment in a particular place at any time in a taxation year it is deemed to have a permanent establishment in that place;
- if, but for this bullet, a corporation would not have a permanent establishment, the corporation is deemed to have a permanent establishment at the place designated in its incorporating documents or bylaws as its head office or registered office;

- the fact that a corporation has business dealings through a commission agent, broker or other independent agent or maintains an office solely for the purchase of merchandise shall not on its own mean that the corporation has a permanent establishment; and
- the fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary-controlled corporation engaged in trade or business in a place does not on its own mean that the corporation is operating a permanent establishment in that place.

The same definition under Part IV of the *Income Tax Regulations* also applies with respect to the permanent establishment of a member of a partnership, where the member is a corporation and the establishment relates to a business carried on by the partnership.

Where a member of a particular partnership is also a partnership, the permanent establishment of the member is determined by the other rules under subsection 132.1(2), provided the establishment relates to a business carried on by the particular partnership.

Finally, under subsection 132.1(2), where a person's permanent establishment cannot be determined using the rules above, the meaning of "permanent establishment" of the person is as defined under Part IV of the *Income Tax Regulations* as if the person were a corporation and its activities were a business for purposes of the *Income Tax Act*.

As a result of subsections 132.1(1) and (2), it is possible for a person, other than an individual in the individual's capacity as a consumer, to be a resident in more than one province.

Subsection 132.1(3) provides that a prescribed person, or a person of a prescribed class, is deemed, under prescribed circumstances and for prescribed purposes, to have a permanent establishment in a prescribed province. Under subsection 2(1) of the Regulations, the classes of persons that are prescribed for purposes of subsection 132.1(3) are:

- charities;
- non-profit organizations; and
- selected public service bodies as defined in section 259.

"Selected public service body" is defined in section 259 to mean:

- a school authority, a university or a public college that is established and operated otherwise than for profit;
- a hospital authority;
- a municipality;
- a facility operator; or
- an external supplier.

Under subsection 2(2) of the Regulations, such a person is deemed to have a permanent establishment in a province if a place in the province would be a permanent establishment (as defined for the purposes of Part IV of the *Income Tax Regulations*) of the person under the following circumstances:

- the person were a corporation; and
- the person's activities were a business for the purposes of the *Income Tax Act*.

Consumers

The rules under section 132.1 do not apply for purposes of determining the province of residence of an individual in the individual's capacity as a consumer. For example, they do not apply for the purposes of determining an individual's eligibility for a rebate, under section 261.1, of the provincial part of the HST in respect of personal goods removed from a participating province. "Consumer" of property or a service is defined under subsection 123(1) to mean a particular individual who acquires or imports property or a service for the particular individual's personal consumption, use or enjoyment, or for the consumption, use or enjoyment of any other individual at the particular individual's expense. However, a consumer does not include an individual who acquires or imports the property or service for consumption, use or supply in the course of commercial activities of the individual or other activities in the course of which the individual makes exempt supplies.

In general, the residence status of an individual is determined according to general legal principles and the facts of each particular case. As a general rule, the CRA considers an individual to be a resident of the province in which the individual has significant residential ties, such as the location of the individual's principal place of residence. Additional information may be found in CRA Interpretation Bulletin IT-221R3 (Consolidated), *Determination of an Individual's Residence Status*, which provides administrative guidelines under the *Income Tax Act* but also offers guidance with respect to residency issues under the *Excise Tax Act*.

Selected listed financial institutions (subsection 123(1), section 220.04, proposed section 225.2 and the draft SLFI Regulations)

A "selected listed financial institution" (SLFI), in general terms, is a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) of the Act that has a permanent establishment in a participating province and a permanent establishment in any other province, at any time during the taxation year. It is proposed under the draft SLFI Regulations that what constitutes a permanent establishment for the purpose of proposed section 225.2 and the draft SLFI Regulations be expanded.

Generally, SLFIs are not required to self-assess tax under Division IV.1. This is because SLFIs generally account for the provincial part of the HST through adjustments to their net tax calculation using the special attribution method formula in subsection 225.2(2). Section 220.04 provides that an amount of tax that becomes payable under Division IV.1 by a person who is an SLFI is not payable unless it is a prescribed amount of tax. For information regarding what is proposed to be a prescribed amount of tax, refer to the draft SLFI Regulations.

Specified items and additional specified items (sections 6, 7.1 and 22.1 of the Regulations)

A "specified item" in respect of a province means property or a service that is an item included in a schedule to the *Deduction for Provincial Rebate (GST/HST) Regulations* in respect of which an amount may be paid or credited under a provincial statute.

An "additional specified item" is property or a service in respect of which a person has been paid or credited, or is entitled to be paid or credited, a qualifying amount (as defined in section 1 of the *Credit for Provincial Relief (HST) Regulations*) in respect of a specified item in Ontario.

For the purposes of Division 5 of the Regulations, property in respect of which a person has been paid or credited, or is entitled to be paid or credited, a qualifying amount (as defined in section 1 of the *Credit for Provincial Relief (HST) Regulations*) is a specified item in respect of Ontario.

Tax rate (subsection 123(1))

"Tax rate", for or in relation to a participating province, means

- if there is a sales tax harmonization agreement with the government of the participating province relating to the new harmonized value-added tax system, the rate that is prescribed for the participating province;
- if the participating province is an offshore area referred to in the definition "participating province", the rate that is prescribed for the participating province; and
- in the absence of a rate that is prescribed for the participating province, the rate set opposite the name of the participating province in Schedule VIII.

Appendix C – Definitions and concepts that are relevant for purposes of subdivision a of Division IV.1 (sections 220.05 to 220.07)

Carriers (section 220.02)

For purposes of the self-assessment rules in Division IV.1, where a particular person at any time brings goods into a province on behalf of another person, section 220.02 deems the other person and not the particular person to have brought the goods into that province. It is therefore the person on whose behalf the goods are brought into the province who has a potential obligation to self-assess the provincial part of the HST.

Provincial authority (section 220.01)

"Provincial authority" means any department or agency of a province that is empowered under the laws of that province to collect, at the time when a specified motor vehicle is registered in the province, any specified provincial tax imposed in respect of the specified motor vehicle.

Specified motor vehicle (subsection 123(1))

A "specified motor vehicle" means

- vehicles that are or would, if they were imported, be classified under any of tariff item 8701.20.00, subheading Nos. 8701.30 and 8701.90, heading No. 87.02, tariff item 8703.10.10, subheading Nos. 8703.21 to 8703.90 and 8704.21 to 8704.90, heading 87.05, tariff items 8711.20.00 to 8711.90.00 and 8713.90.00, 8716.10.21, 8716.10.29 and 8716.39.30 to 8716.40.00 and subheading No. 8716.80 of Schedule I to the *Customs Tariff*, other than racing cars classified under heading No. 87.03 of that Schedule and prescribed motor vehicles; and
- prescribed motor vehicles.

Generally, a specified motor vehicle includes all motor vehicles, other than racing cars classified under heading number 87.03. No regulations currently exist that prescribe motor vehicles for purposes of the definition of "specified motor vehicles".

Specified provincial tax (section 220.01)

A "specified provincial tax" means

(a) in the case of a vehicle registered in the province of Nova Scotia, the tax imposed under Part IIA of the *Revenue Act*, S.N.S. 1995-96, c. 17, as amended from time to time;

(b) in the case of a vehicle registered in the province of New Brunswick, the tax imposed under Part V of the *Harmonized Sales Tax Act*, S.N.B. 1997, c. H-1.01, as amended from time to time;

(c) in the case of a vehicle registered in the province of Newfoundland and Labrador, the tax imposed under Part VIII of the *Revenue Administration Act*, S.N.L. 2009, c. R-15.01, as amended from time to time; and

(d) in the case of a vehicle registered in any other participating province, a prescribed tax.

Under section 8 of the Regulations, for purposes of paragraph (d) of the definition "specified provincial tax",

(a) in the case of a vehicle registered in the province of Ontario, the prescribed tax is the tax imposed under the *Retail Sales Tax Act*, R.S.O. 1990, c. R.31, as amended from time to time; and

(b) in the case of a vehicle registered in the province of British Columbia, the prescribed tax is the tax imposed under Part 5 of the *Consumption Tax Rebate and Transition Act*, S.B.C. 2010, c. 5, as amended from time to time.

Specified value (section 220.01)

The "specified value" in respect of a specified motor vehicle that a person is required to register under the laws of a participating province relating to the registration of motor vehicles, means the value that would be attributed to the specified motor vehicle by the provincial authority for that province for the purpose of calculating the specified provincial tax payable if, at the time of registration, that tax were payable in respect of the specified motor vehicle.

Tangible personal property (section 220.01)

For purposes of the self-assessment rules in Division IV.1, section 220.01 provides that tangible personal property also includes a mobile home that is not affixed to land and a floating home (both of which are otherwise considered to be real property based on the definition of "real property" in subsection 123(1)).

Tangible personal property in transit (section 220.03)

For purposes of the self-assessment rules in Division IV.1, where a person brings goods into a province in the course of transporting goods from a place outside the province to another place outside the province, and the goods are not stored in the province except for storage incidental to the transportation, section 220.03 deems the person not to have brought the goods into the province at that time. As a result, self-assessment of the provincial part of the HST is not required where goods are simply being transported through a participating province en route to a destination outside that province.

Appendix D – Definitions and concepts that are relevant for purposes of section 220.05

Pension entities (subsection 220.05(3.1))

Subsection 220.05(3.1) provides that no tax is payable under subsection 220.05(1) in respect of tangible personal property if a pension entity of a pension plan (as those terms are defined in subsection 172.1(1)) is the recipient of a particular supply of the property made by a participating employer (as defined in subsection 172.1(1)) of the pension plan and

(a) the amount determined for B in the formula in paragraph 172.1(5)(c) in respect of a supply of the same property that is deemed to have been made by the participating employer under paragraph 172.1(5)(a) is greater than zero; or

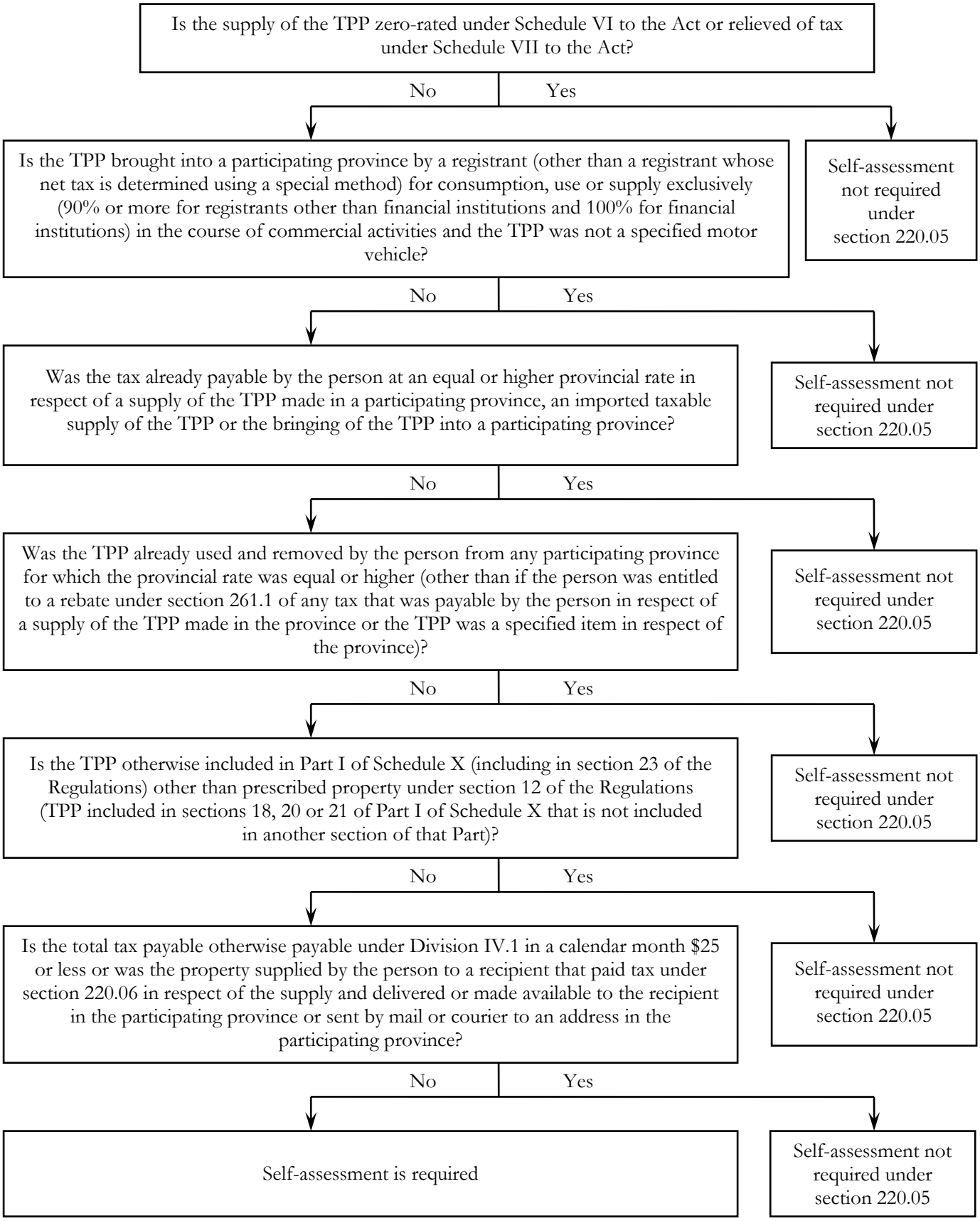
(b) the amount determined for B in the formula in paragraph 172.1(6)(c) in respect of every supply deemed to have been made under paragraph 172.1(6)(a) of an employer resource (as defined in subsection 172.1(1)) consumed or used for the purpose of making the particular supply is greater than zero.

Application in offshore areas (subsection 220.05(4))

Subsection 220.05(4) provides that subsection 220.05(1) does not apply to tangible personal property that is brought into the Nova Scotia or Newfoundland offshore areas by a person unless the property is brought into the area for consumption, use or supply in the course of an offshore activity.

Appendix E – Tax in respect of TPP brought into a participating province from another province

(Section 220.05)



Appendix F – Part I of Schedule X to the *Excise Tax Act*

Schedule X to the *Excise Tax Act* lists property and services that are conditionally relieved from the requirement to self-assess the provincial part of the HST when they are brought into a participating province. Part I of Schedule X to the Act lists tangible personal property that is relieved from the provincial part of the HST under paragraphs 220.05(3)(a) and 220.06(3)(a) if the property is not prescribed property under section 12 of the *New Harmonized Value-added Tax System Regulations, No. 2*. Section 12 describes property that is prescribed property and thus excluded from the relief described under Part I of Schedule X.

Part I of Schedule X – Non-taxable property for purposes of subdivision A of Division IV.1

(Subsections 220.05(3) and 220.06(3))

1. Property that is at any time brought into a participating province and that is described in heading No. 98.01 (certain foreign-based conveyances involved in international commercial transportation), 98.10 (certain arms, military stores, munitions and similar goods) or 98.12 (UN or NATO publications and books received from free lending libraries located abroad and subject to return under Customs supervision) of Schedule I to the *Customs Tariff* to the extent that the property would not be subject to customs duties under that Act.

2. Conveyances temporarily brought into a participating province by a person who is resident in that province, to be employed in the international non-commercial transportation of that person and accompanying persons using the same conveyance.

3. Conveyances and baggage temporarily brought into a participating province by a non-resident person for use by that person in that province.

4. Arms, military stores and munitions of war brought into a participating province by the Government of Canada in replacement of or in anticipation or actual exchange for similar goods loaned to or exchanged or to be exchanged with the governments of a foreign country designated by the Governor in Council under heading No. 98.10 (certain arms, military stores, munitions and similar goods) of Schedule I to the *Customs Tariff*, under such regulations as the Minister may make for purposes of heading No. 98.11 (certain arms, military stores and munitions) of that Act.

5. Property that is clothing or books brought into a participating province for charitable purposes, and photographs, not exceeding three, where they are brought into a participating province other than for the purpose of sale.

6. Property, (other than advertising matter, tobacco or an alcoholic beverage) that is a casual donation sent by a person in a non-participating province to a person in a participating province, or brought into a particular participating province by a person who is not resident in the participating provinces as a gift to a person in that participating province, where the fair market value of the property does not exceed $60, under such regulations as the Minister may make for purposes of heading No. 98.16 (certain casual donations and gifts to residents of Canada) of Schedule I to the *Customs Tariff*.

7. Property that is brought into a participating province for a period not exceeding six months for the purpose of display at a convention (within the meaning assigned by the *Display Goods Temporary Importation Regulations* made under the *Customs Tariff*) or a public exhibition at which the goods of various manufacturers or producers are displayed.

8. Property that is brought into a participating province on a temporary basis after having been removed from Mexico or the United States, where the property is
   (a) intended for display or demonstration;
   (b) commercial samples;
   (c) advertising films; or
   (d) conveyances or containers based in the United States or Mexico engaged in the international traffic of goods.

9. Property that is at any time brought into a participating province by an individual who
   (a) was formerly resident in the participating province and is, at that time, returning to resume residence in the participating province after being resident in another province for a period of not less than one year,
   (b) is a resident of the participating province who is, at that time, returning after being absent from the participating province for a period of not less than one year, or
   (c) is, at that time, entering the province with the intention of establishing a residence for a period of not less than twelve months, (other than a person who enters Canada in order to reside in Canada for the purpose of employment for a temporary period not exceeding 36 months or for the purpose of studying at an institute of learning)

   where the property is for the individual's personal or household use and was owned and in the individual's possession before that time, provided that, where the property was owned and in the individual's possession for less than 31 days prior to the time when it is brought into the participating province
   (d) the individual has paid any retail sales tax applicable to the property in the province from which the property has been brought, and
   (e) the individual is not entitled to claim a rebate or a refund of that retail sales tax.

10. Property that is brought into a participating province, where the property is
    (a) personal and household effects of an individual who died outside the participating provinces and was, at the time of death, resident in a participating province, or
    (b) personal and household effects received, by an individual who is resident in a participating province, as a result or in anticipation of the death of an individual who was not resident in a participating province,

    where the property is given as a gift or bequest to an individual who is resident in a participating province.

11. Medals, trophies and other prizes, not including usual merchantable goods, that are won outside the participating provinces in competitions, that are bestowed, received or accepted outside the participating provinces or that are donated by persons outside the participating provinces, for heroic deeds, valour or distinction.

12. Printed matter that is to be made available to the general public, without charge, for the promotion of tourism, where the printed matter is brought into a participating province
    (a) by or on the order of a foreign government or a government outside the participating province or by an agency or representative of such a government; or
    (b) by a board of trade, chamber of commerce, municipal or automobile association or similar organization to which it was supplied for no consideration, other than shipping and handling charges.

13. Property that is brought into a participating province by a charity or a public institution and that has been donated to the charity or the institution.

14. Property that is brought into a participating province by a person if it is supplied to the person for no consideration, other than shipping and handling charges, as a replacement part or as replacement property under a warranty.

15. Property that is brought into a participating province, the supply of which is included in any of Parts I to IV and VIII of Schedule VI.

16. Containers that are brought into a participating province where, because of regulations made under Note 11(c) to Chapter 98 of Schedule I to the *Customs Tariff*, they would, if they were imported, be imported free of customs duties under that Act.

17. Money or certificates or other documents evidencing a right that is a financial instrument.

18. Property that is brought into a participating province by a person after having been supplied to the person by another person in circumstances in which tax was payable in respect of the property by the person under subsection 165(2) or section 218.1.

19. Property that a person brings at any time into a participating province and that at that time is being supplied in a non-participating province to the person by way of lease, licence or similar arrangement under which continuous possession or use of the property is provided for a period of more than three months and in circumstances in which tax under subsection 165(1) is payable by the person in respect of that supply.

20. Property that is brought into a participating province by a person after having been imported by the person in circumstances in which
    (a) tax was not payable under section 212 in respect of the property because of section 213; or
    (b) tax was payable under section 212.1 and the person was not entitled to a rebate of that tax under section 261.2.

21. Property that is brought into a participating province by a person after having been used in, and removed from, a participating province by the person and in respect of which the person was not entitled to claim a rebate under section 261.1.

22. Property (other than a specified motor vehicle) that is brought into a participating province by a registrant (other than a registrant whose net tax is determined under section 225.1 of the Act or under Part IV or V of the *Streamlined Accounting (GST) Regulations*) for consumption, use or supply exclusively in the course of commercial activities of the registrant.

23. Prescribed property brought into a participating province in prescribed circumstances, subject to such terms and conditions as may be prescribed.

24. A specified motor vehicle that is brought into a participating province by a person after having been supplied to the person by way of sale in a non-participating province, in circumstances in which tax was not payable under subsection 165(1) in respect of the supply.

25. A mobile home or a floating home that has been used or occupied in Canada as a place of residence for individuals.

26. Property referred to in subsection 178.3(1) or 178.4(1) where it is brought into a participating province by an independent sales contractor (within the meaning of section 178.1) who is not a distributor in respect of whom an approval granted under subsection 178.2(4) on application made jointly with a direct seller is in effect.

Appendix G – Schedule VII to the *Excise Tax Act*

Schedule VII to the *Excise Tax Act* lists tangible personal property that is relieved from the application of the GST/HST when the property is imported into Canada. Certain property described under Schedule VII may be relieved from the requirement to self-assess the provincial part of the HST under either of subsection 220.05(1) or 220.06(1) when the property is brought into a participating province, and subsection 220.07(1) when the property is imported from outside Canada into a participating province.

Schedule VII (Sections 213 and 217) – Non-taxable importations

1. Goods that are classified under heading No. 98.01, 98.02, 98.03, 98.04, 98.05, 98.06, 98.07, 98.10, 98.11, 98.12, 98.15, 98.16 or 98.19 or subheading No. 9823.60, 9823.70, 9823.80 or 9823.90 of Schedule I to the *Customs Tariff*, to the extent that the goods are not subject to duty under that Act, but not including goods that are classified under tariff item 9804.30.00 of that Schedule.

1.1 For the purposes of section 1, "duty" does not include a special duty imposed under section 54 of the *Excise Act, 2001*.

1.2 For the purposes of section 1, subsection 140(2) of the *Customs Tariff* does not apply in respect of the reference to heading 98.04.

2. Medals, trophies and other prizes, not including usual merchantable goods, that are won outside Canada in competitions, that are bestowed, received or accepted outside Canada or that are donated by persons outside Canada, for heroic deeds, valour or distinction.

3. Printed matter that is to be made available to the general public, without charge, for the promotion of tourism, where the printed matter is

   (a) imported by or on the order of a foreign government or an agency or representative of a foreign government; or

   (b) imported by a board of trade, chamber of commerce, municipal or automobile association or similar organization to which it was supplied for no consideration, other than shipping and handling charges.

4. Goods that are imported by a charity or a public institution in Canada, and that have been donated to the charity or institution.

5. Goods that are imported by a particular person if the goods are supplied to the particular person by a non-resident person for no consideration, other than shipping and handling charges, as replacement parts or as replacement property under a warranty.

5.1 Goods that are imported solely for the purpose of fulfilling an obligation under a warranty to repair or replace the goods if defective, where replacement goods are supplied for no additional consideration, other than shipping and handling charges, and exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of the goods.

6. Goods the supply of which is included in any of Parts I to IV and VIII of Schedule VI, other than section 3.1 of Part IV of that Schedule.

7. Goods (other than prescribed goods) that are sent to the recipient of the supply of the goods at an address in Canada by mail or courier (within the meaning assigned by subsection 2(1) of the *Customs Act*) and the value of which, determined under paragraph 215(1)(a), is not more than $20.

7.1 Goods that are prescribed property for the purposes of section 143.1 and that are sent, by mail or courier, to the recipient of the supply of the goods at an address in Canada, where the supplier is registered under Subdivision d of Division V of Part IX at the time the goods are imported.

8. Prescribed goods imported in prescribed circumstances and under prescribed terms and conditions.

8.1 Particular goods that are imported at any time by a registrant to whom has been issued an authorization under section 213.2 that is in effect at that time and that are

(a) processed, distributed or stored in Canada and subsequently exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of the goods,

(b) incorporated or transformed into, attached to, or combined or assembled with, other goods that are processed in Canada and subsequently exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of those other goods, or

(c) materials (other than fuel, lubricants and plant equipment) directly consumed or expended in the processing in Canada of other goods that are exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of those other goods,

where

(d) the particular goods are imported solely for the purpose of having services performed that are supplied by the registrant to a non-resident person,

(e) throughout the period beginning at the time the particular goods are imported by the registrant and ending at the time of the exportation of the particular goods or the products (in this section referred to as the "processed products") resulting from the processing referred to in whichever of paragraphs (a) to (c) applies,

(i) neither the particular goods nor the processed products are the property of a person resident in Canada,

(ii) the registrant does not have any proprietary interest in the particular goods or the processed products, and

(iii) the registrant is not closely related to any non-resident person referred to in paragraph (d) or to any non-resident person whose property are the particular goods or the processed products,

(f) at no time during the period referred to in paragraph (e) does the registrant transfer physical possession of the particular goods or the processed products to another person in Canada except for the purpose of their storage, their transportation to or from a place of storage or their transportation in the course of being exported,

(g) the exportation of the particular goods or the processed products, as the case may be, occurs within four years after the day on which the particular goods are accounted for under section 32 of the *Customs Act*,

(h) at the time of that accounting for the particular goods, the registrant discloses, on the accounting document, the number assigned to the registrant under subsection 213.2(1), and

(i) the registrant has provided any security that is required under section 213.1.

8.2 For the purpose of section 8.1, "processing" includes adjusting, altering, assembling or disassembling, cleaning, maintaining, repairing or servicing, inspecting or testing, labelling, marking, tagging or ticketing, manufacturing, producing, packing, unpacking or repacking, and packaging or repackaging.

9. Containers that, because of regulations made under Note 11(c) to Chapter 98 of Schedule I to the *Customs Tariff*, may be imported free of customs duties.

10. Money or certificates or other documents evidencing a right that is a financial instrument.

11. A particular good that is an item of domestic inventory, added property or a customer's good (as those expressions are defined in section 273.1) imported at any time by a person who is registered under Subdivision d of Division V of Part IX and to whom has been granted an authorization that is in effect at that time to use an export distribution centre certificate (within the meaning of that section), if

    (a) when the particular good is accounted for under section 32 of the *Customs Act*, the person certifies that the authorization is in effect at that time and discloses the number referred to in subsection 273.1(9) and the effective date and expiry date of the authorization; and

    (b) the person has provided any security that is required under section 213.1.

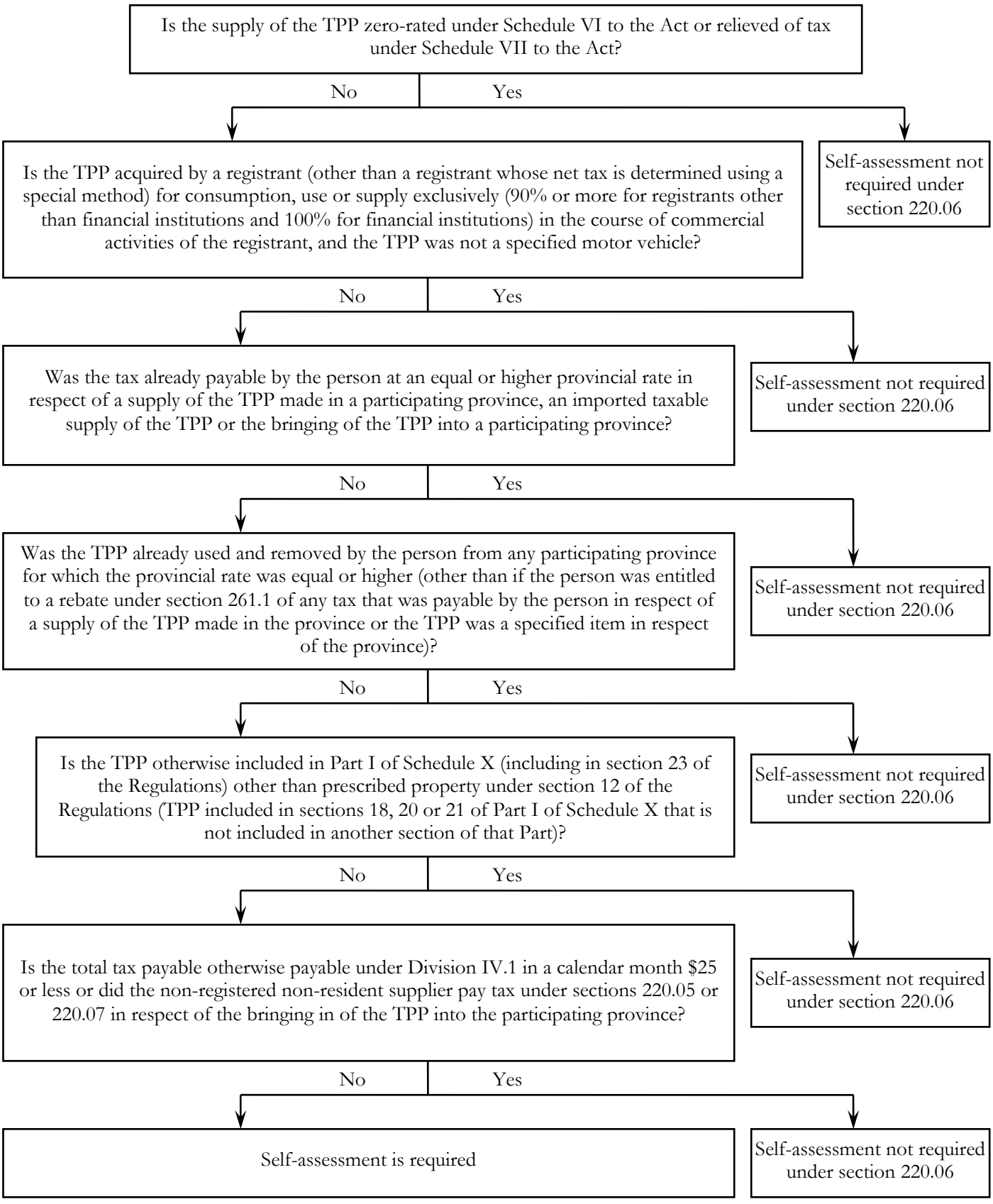
12. Imported grain or seeds, or imported mature stalks having no leaves, flowers, seeds or branches, of hemp plants of the genera *Cannabis*, if

    (a) in the case of grain or seeds, they are not further processed than sterilized or treated for seeding purposes and are not packaged, prepared or sold for use as feed for wild birds or as pet food;

    (b) in the case of viable grain or seeds, they are included in the definition "industrial hemp" in section 1 of the *Industrial Hemp Regulations* made under the *Controlled Drugs and Substances Act*; and

    (c) the importation is in accordance with that Act, if applicable.

Appendix H – Tax in respect of TPP supplied by a non-resident non-registered supplier and delivered or made available or sent by mail or courier to a participating province *(Section 220.06)*



Appendix I – Definitions and concepts that are relevant for purposes of section 220.07

Goods (subsection 123(1) and subsection 2(1) of the *Customs Act*)

Under subsection 123(1), "goods" has the same meaning as in the *Customs Act*. Under subsection 2(1) of the *Customs Act*, "goods", for greater certainty, includes conveyances, animals and any document in any form. Although considered to be real property based on the definition of real property in subsection 123(1), a mobile home and a floating home are considered to be goods under this definition for purposes of those provisions in the *Excise Tax Act* that relate to their importation, including section 220.07. However, subsection 220.07(2) provides that tax under subsection 220.07(1) is not payable in respect of a mobile home or a floating home that has been used or occupied in Canada as a place of residence for individuals.

Commercial Goods (subsection 212.1(1))

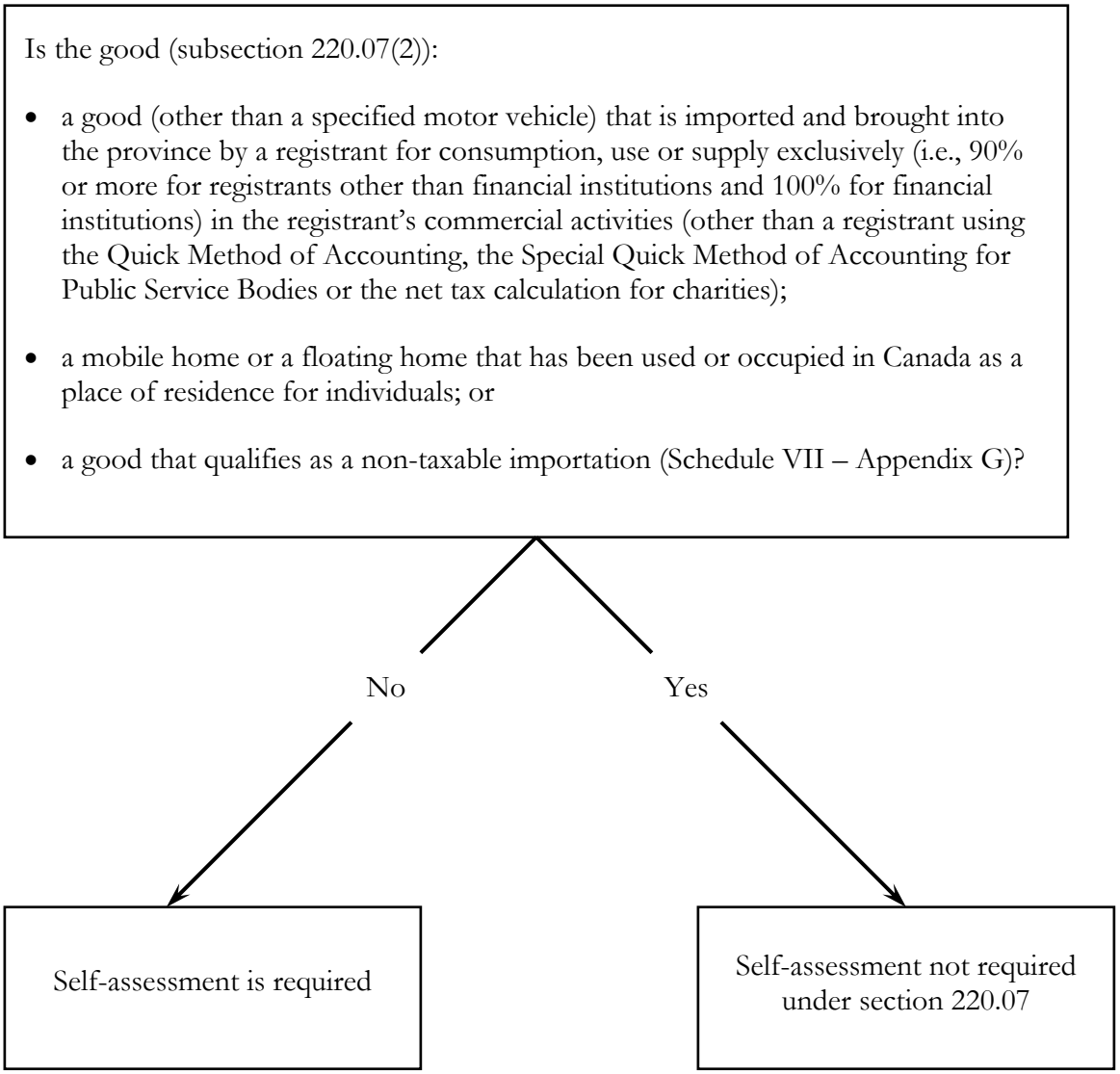
"Commercial goods" are goods that are imported for sale or for any other commercial, industrial, occupational, institutional or other like use.

Application in offshore areas (subsection 220.07(5))

Self-assessment of the provincial part of the HST in respect of tangible personal property that is imported into the Nova Scotia offshore area or Newfoundland offshore area from outside Canada is not required, unless the property is brought into the area for consumption, use or supply in the course of an offshore activity.

Appendix J – Tax in respect of specified motor vehicles and commercial goods imported into a participating province

(Section 220.07)



Appendix K – Definitions and concepts that are relevant for purposes of Subdivision b of Division IV.1 (section 220.08)

Pension entities (subsection 220.08(3.1))

Subsection 220.08(3.1) provides that no tax is payable under subsection 220.08(1) in respect of a particular supply of intangible personal property or a service made by a participating employer of a pension plan (as those terms are defined in subsection 172.1(1)) to a pension entity (as defined in subsection 172.1(1)) of the pension plan if

(a) the amount determined for B in the formula in paragraph 172.1(5)(c) in respect of a supply of the same property or service that is deemed to have been made by the participating employer under paragraph 172.1(5)(a) is greater than zero; or

(b) the amount determined for B in the formula in paragraph 172.1(6)(c) in respect of every supply deemed to have been made under paragraph 172.1(6)(a) of an employer resource (as defined in subsection 172.1(1)) consumed or used for the purpose of making the particular supply is greater than zero.

Application in offshore areas (subsection 220.08(4))

Subsection 220.08(4) provides that subsection 220.08(1) does not apply to a supply of intangible personal property or a service made to a person who is resident in the Nova Scotia or Newfoundland offshore area unless the property or service is acquired for consumption, use or supply in the course of an offshore activity or the person is also resident in a participating province that is not an offshore area.

Use in offshore areas (subsection 220.08(5))

For the purposes of subsection 220.08(1), a person that acquires property or a service for consumption, use or supply in the Nova Scotia offshore area or the Newfoundland offshore area is deemed to acquire the property or service for consumption, use or supply in that area only to the extent that it is acquired for consumption, use or supply in that area in the course of an offshore activity.

Appendix L – Tax in respect of a taxable supply of intangible personal property or services made in a province to a resident of a participating province for consumption, use or supply in a participating province

(Section 220.08)